TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 247.

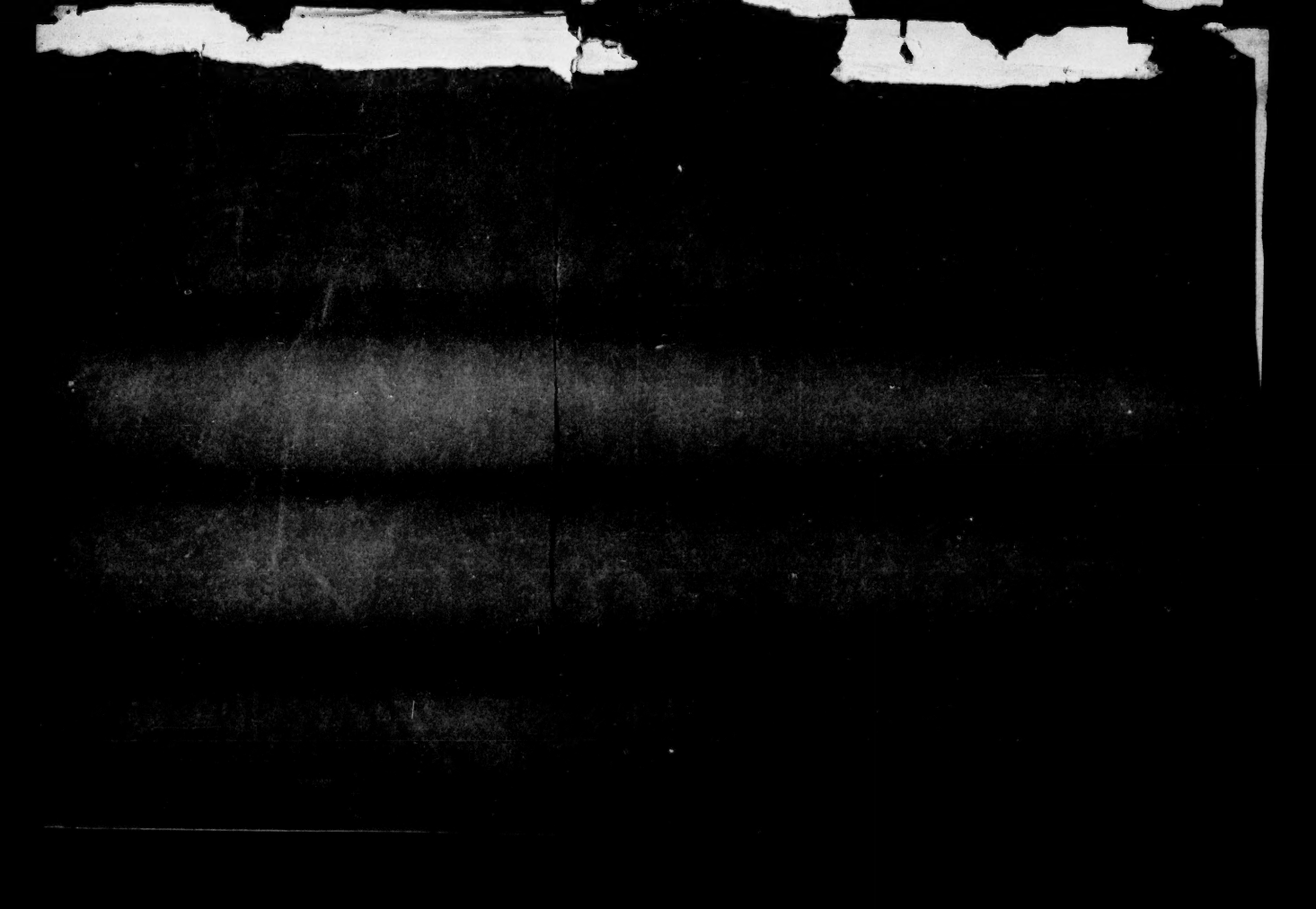
THE UNITED STATES, APPELLANTS,

vs.

THE HEIRS OF JAMES INNERARITY, DECEASED.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

FILED NOVEMBER 12, 1872.



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1 United States district court, district of Louisiana.

HEIRS OF JAMES INNERARITY
vs.
THE UNITED STATES.
} No. 16. Land cause.

Petition.—Filed March 1st, 1870.

To the judge of the district court of the United States for the district of Louisiana:

This petition of Eloise Innerarity, wife of, and authorized & assisted herein by, Lewis W. Minor, both of Norfolk, in Norfolk County, Virginia; of James, or Santiago Innerarity, of Madrid, Spain, late of Havana, in the island of Cuba; of Hamet Innerarity, wife of, and authorized and assisted herein by, E. L. Deschappelles, both of New Orleans,
2 Parish, La.; of Eloise Innerarity, wife of, and authorized and assisted herein by, John S. Barton, both of New Orleans, Orleans Parish, Louisiana; of Eliza J. Innerarity, wife of, and authorized & assisted herein by, Robert N. Boggs, both of Mobile, Mobile County, Alabama; of Heloise H. Innerarity, wife of, and authorized & assisted herein by, Jno. Wilson, both of New Orleans, Orleans Parish, Louisiana; of Fanny C. Innerarity, wife of, and authorized and assisted herein by, Cornelius P. Whykoff, both of Mobile, Mobile County, Alabama; of Mistress Innerarity, widow of John F. Innerarity, now of New Orleans, Orleans Parish, Louisiana, as natural tutrix of the minors, Emanuel S. Innerarity, Margaret Isabel Innerarity, Helena Victoria Innerarity, and Lewis Minor Innerarity, all issue of her said husband, and of her marriage with him; and of John W. G. Innerarity, James J. Innerarity, and Albert H. Innerarity, all of New Orleans, Orleans Parish, Louisiana, shows:

3 That, as the sole heirs, & therefore the sole legal representatives of James Innerarity, who lived and died in Mobile, Mobile County, Alabama, they are entitled, under international law, treaty stipulations, & the legislation of the United States, to a judicial recognition of a Spanish patent for twenty thousand arpents of land, in the present parish of East Baton Rouge, Louisiana, which land belongs to petitioners as heirs and legal representatives aforesaid, and is supposed to cover the legal divisions and subdivisions of the surveys made by the United States, which are represented on the plat hereto annexed as part of this petition, for this:

That on the 1st of October, 1803, Don Juan Bonaventura Morales, principal comptroller of the army and finances, and intendant-general of the provinces of Louisiana and Florida West, issued the usual order of survey for said land in favor of Charles Ramos. That on the 23d
4 December, 1803, Don Vicente Sebastian Pintado, surveyor-general of Florida West, where said land is situated, executed two plats and certificates of survey of said land, locating 7,892 arpents thereof in the present townships 4 & 5, south of range 2 east, and the remaining 12,108 arpents thereof in the present townships 5 & 6, south of range 2 east, all in the present Greensburg land district, Louisiana. That afterwards the said Charles Ramos bought the said land from the proper Spanish colonial authorities, and paid therefor at the rate of ten cents an arpent. That afterwards, on the 5th of March, 1804, the said intendant-general granted a complete Spanish patent, in favor of said Charles Ramos, for said land.

That said patent & said other written evidences of title emanated from the foreign government of Spain, & bear date, and were
5 perfected prior to the cession to the United States of the district in which said land is situate, and during the period when said government of Spain claimed sovereignty & had the actual possession of said district.

That the lands now claimed have not been in possession of and cultivated by the original claimant or claimants, or those holding title under them, for a period of 20 years preceding the date of filing this petition. That after the issuing of said patent the land became the property of James Innerarity, deceased, the said ancestor of petitioners.

That by act of Congress No. 50, of the 8th of April, 1812, the State of Louisiana was admitted into the Federal Union. That by act of Congress No. 57, of the 14th of April, 1812, the boundaries of the State were extended to embrace that part of the present State east of the Mississippi River and north of bayou Manchac and the lakes, now known
6 as the West Florida parishes, and containing said 20,000 arpents of land. That under act of Congress No. 67, of the 25th of April, 1812, the said claim to said 20,000 arpents was presented for ascertainment and ultimate legislative confirmation to James O. Cosby, then United States land commissioner for the late land district west of Pearl River, now Greensburg district, in the State of Louisiana. That afterwards the said commissioner reported the said claim to the Department in Washington, as one which, in his opinion, was not valid, agreeably to the law, usages, and customs of the Spanish government. That said claim is numbered 15, in register C of said commissioner, and is published in American State Papers, Public Lands, vol. iii, page 54, Green's edition. That, by reason of such adverse opinions, the United States have never taken any action whatever in said claim.

7 And petitioners further show that by act of Congress No. , of 22 June, 1860, as revived for 3 years by act of Congress No. 184, of 2 March, 1867, this court is vested with jurisdiction of this suit.

And petitioners further show that said James Innerarity died after acquiring said 20,000 arpents of land, leaving as his sole issue, 1st, your petitioner Eloise Innerarity, wife of petitioner Lewis W. Minor; 2nd, your petitioner Santiago or James Innerarity; 3rd, William P. Innerarity, since deceased; & 4th, John F. Innerarity, since deceased. That said William P. Innerarity married, and afterwards died, leaving, as his sole issue, 1st, your petitioner Harriet Innerarity, wife of petitioner E. L. Deschappelles, and 2d, your petitioner Eloise Innerarity, wife of petitioner, John S. Barton. That said John F. Innerarity married your petitioner Mistress Innerarity, and died, leaving as his sole issue,
8 and the sole issue of said marriage, 1st, your petitioner Eliza J. Innerarity, wife of petitioner Robert N. Boggs; 2nd, your petitioner Heloise H. Innerarity, wife of petitioner John Wilson; 3d, your petitioner Fanny C. Innerarity, wife of petitioner Cornelius P. Wykoff; 4th, the minor Emanuel S. Innerarity; 5th, the minor Margaret Isabel Innerarity; 6th, the minor Helena Victoria Innerarity; 7th, the minor Lewis Minor Innerarity; 8th, your petitioner John W. G. Innerarity; 9th, your petitioner James J. Innerarity, and 10th, your petitioner Albert H. Yunerarity.

Wherefore petitioners pray that the United States, thro' their district attorney for the district of Louisiana, may be cited to answer hereto; that, after due proceedings had, petitioners' said claim to 20,000 arpents of land may be recognized as a complete Spanish patent, valid against the United States; and that for so much of said land as may be

9 found to have been sold or disposed of by the United States before judgment herein, or may be ascertained by U. S. surveyor-general to be incapable of survey and location by the United States, petitioners may be empowered to make entries on the public lands of the United States subject to private entry at $1.25 an acre.

And petitioners pray for costs and for general relief.

(Signed) ROB'T H. BRADFORD,
Land lawyer and counsel for p'rt's, 18 Royal street.

Robert H. Bradford being duly sworn, says that the allegations in the within petition are true; that the majority in interest of petitioners are absent from this parish, and that he is an agent or attorney for all of petitioners in this proceeding.

(Signed) ROBERT H. BRADFORD,
Att'y at law, for Petitioners.

10 Sworn to and subscribed before me this 1st March, 1870.

(Signed) K. LOEW, *U. S. C.*

(Endorsed:) It is admitted that a copy of this petition and citation was served on second day of March, 1870.

(Signed) P. H. MORGAN,
U. S. Att'y.

Citation.—Issued March 1st, 1.—1870.

11 The President of the United States of America to the marshal of the district of Louisiana, greeting:

You are hereby commanded to summon the U. S. of America, thro' their att'y P. H. Morgan, to comply with the demand of the heirs of James Innerarity, contained in the petition of which a copy accompanies this citation, or to deliver their answer to the same in the office of the clerk of the district court of the United States of America for the district of Louisiana, holding session in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against them by default, and that you make due return hereof on the 3d Monday of March, 1870.

Witness the honorable Edward H. Durell, judge of the said court, at the city of New Orleans, this 1st day of March, A. D. one thousand eight hundred and seventy.

[SEAL] (Signed) CH'S CLAIBORNE, *Clerk.*

12 (Indorsed:) U. S. of America, P. H. Morgan, att'y. No. 16. U. S. district court, New Orleans. Heirs James Innerarity vs. the U. States. Citation.

U. S. marshall's return.

Received this day of 187 , and on the day of 187 , served copies of the within citation, plaintiff's petition, and documents annexed on the within named in the manner following, to wit:

13 *Peremptory exception.—Filed July* 6, 1870.

HEIRS OF JAMES INNERARITY
vs.
THE UNITED STATES. } No. 16.

District court of the United States for the district of Louisiana.

Now come the United States, by A. B. Long, esq., their attorney, and for peremptory exception say, that the court is without jurisdiction to hear and determine this cause, for this, that the act of Congress of 22d June, 1860, chapter 188, as extended by the act of 2nd March, 1867, chapter 184, under authority of which this suit assumes to have been instituted, had expired by limitation before the plaintiffs filed their petition.

Wherefore they pray that this suit be dismissed with costs.

(Signed) A. B. LONG,
U. S. Att'y.

14 *Demurrer.—Filed April 18th,* 1871.

In the district court of the United States for the district of Louisiana.

HEIRS OF JAMES INNERARITY
vs.
UNITED STATES. } No. 16. Land docket.

The demurrer of J. R. Beckwith, attorney of the United States for the district of Louisiana for the United States of America, to the petition of the heirs of James Innerarity, petitioners.

This defendant by protestation, not confessing or acknowledging all or any of the matters or things in said petitioners' petition to be true in such manner and form as the same are therein set forth and alleged, doth demur thereto and for cause of demurrer showeth that the said complainant hath not, in and by their said petition, made or
15 stated such a case as doth or ought to entitle them to any such discovery or relief as is thereby sought and prayed for from or against this defendant.

Wherefore this defendant demands the judgment of this hon. court, whether he shall be compelled to make any further or other answer to the said petition or any of the matters and things therein contained, and prays to be hence dismissed with his reasonable costs in this behalf sustained.

(Signed) J. R. BECKWITH,
U. S. Att'y.

The foregoing demurrer is, in my opinion, well founded in point of law, and is not interposed for delay.

(Signed) J. R. BECKWITH,
U. S. Att'y.

16 *Submission of demurrer.—From the land-claims minutes of June 7th,* 1871, *May term,* 1871.

HEIRS OF JAMES INNERARITY
vs.
THE UNITED STATES. } No. 16.

On motion of R. H. & J. L. Bradford, of counsel in the case of the

Heirs of Ja's Innerarity vs. The United States, No. 16 of the new land docket, under the act of Congress of June 2, 1860, with the consent of the district attorney—

It is ordered that the exception and demurrer filed by the defendants in this case be substituted with leave to the district attorney to file a brief within 4 days.

Order overruling exceptions and demurrer, from the minutes of June 14, '71.

17 HEIRS OF JAMES INNERARITY *vs.* THE UNITED STATES. } No. 16. Land docket.

Ordered, that the exception and demurrer in this cause be overruled, and that the defendants answer on or before the next rule day.

Rule to admit supplemental petition.—From minutes of November 27, 1872.

HEIRS J. INNERARITY *vs.* THE UNITED STATES. } No. 16.

On motion of R. H. & J. L. Bradford, of counsel for plaintiffs, ordered that the district attorney representing the defendants herein, show cause on Monday, the 4th day of December, 1871, at 11 a. m., why the supplemental petition this day presented to the court, should not be filed and the prayer thereof granted.

18 *Supplemental petition presented for filing 27th Nov'ber, '71. filed by leave of court December 4th,* 1871, *subject to right to demur.*

To the judge of the district court of the United States for the district of Louisiana:

This amended petition of Eloise Innerarity, wife of, and authorized & assisted herein by, Louis W. Minor; of Santiago Innerarity; of Harriet Innerarity, wife of, & authorized and assisted herein by, E. S. Deschappelles; of Eloise Innerarity, wife of, and authorized and assisted herein by, John L. Barton; of Eliza J. Innerarity, wife of, and authorized and assisted herein by, Rob't N. Boggs; of Heloise H. Innerarity, wife of, & authorized & assisted herein by, John Wilson; of Fanny C. Innerarity, wife of, & authorized & assisted herein by, Cornelius
19 P. Wykoff; of Mrs. Innerarity, widow of John F. Innerarity, as natural tutrix of her minor children, Emanuel S., Margaret J., Helen V., and Louise M. Innerarity, of John W. G. Innerarity; of James J. Innerarity and Albert H. Innerarity, respectfully shows:

That since their petition was filed in this honorable court praying for the judicial confirmation of the Spanish grant to Charles Ramos of twenty thousand arpents of land in the parish of East Baton Rouge, they have discovered by an inspection of the records of the commissioner before whom the said claim was formerly presented, which records are in the lawful custody of the U. S. consolidated land-office in this city, that the true right in law & equity to such lands & to such confirmation exists not in your petitioners, as they have heretofore averred, & had good, just, and sufficient reasons to believe, but in
20 other persons hereinafter named, to wit: Eliza Watkins, John

Watkins, Lucie Watkins, (wife of E. R. Hogan,) and Henry Watkins, all of the city of New Orleans, parish of Orleans, and State of Louisiana, the sole legal heirs of their deceased father, John Watkins, who was the sole and only heir of her father, Dr. John Watkins.

Melanie Bringier, widow of William Simpson, deceased, and his legal heir, of the parish of Ascension & State of Louisiana.

Henrietta Blane, (widow of John Lynde, dec'd,) Robert S. Lynde & Rose Lynde, (widow of R. C. Cammack, dec'd,) all of the city of New Orleans, parish of Orleans, & State of Louisiana, the legal heirs of John Lynde, dec'd.

Odile Ramos, (wife of Edward Buisson,) Josephine Ramos, (wife of August Huard,) Ernest Lafitte, Antonio Lafitte, Berthe Lafitte, (minor children of Charles Lafitte, their natural tutor,) Charles O. Livan-
21 dais, & Odille Livandais, (wife of Charles Lafitte,) all of the city of New Orleans, parish of Orleans, & State of Louisiana, the legal heirs of the widow of Charles Ramos, dec'd.

For that the ancestors of the said parties acquired title to said land by sales and conveyances from the original grantee, Charles Ramos, in the proportion as follows, to wit: John Watkins and William Simpson purchased the whole of said grant, or land, on the 8th March, 1804, from the grantee, Charles Ramos, in undivided moities between them.

That said sale was afterwards, to wit, on the 22d November, 1808, ratified and confirmed by the widow of said vendor with the express reservation to himself of one thousand arpents.

That subsequently the said William Simpson sold to John Lynd an undivided half of his undivided half, after the reservation of one
22 thousand arpen's as aforesaid; thus constituting the said parties proprietors of the following proportions of the whole, to wit:

John Watkins, nine thousand five hundred arpen's; William Simpson, four thousand seven hundred and fifty arpen's; John Lynde four thousand seven hundred and fifty arpen's; and the widow Ramos one thousand arpen's.

That said William Simpson died after acquiring title to said 9,500 arpen's and after having sold one undivided half thereof as aforesaid, and left no issue, his widow Melanie Bringier succeeding to his rights of property, who now lives in the parish of Ascension & State of Louisiana.

That John Lynde died after acquiring title to said 4,750 arpen's, leaving as his representatives Henrietta Blane, (his widow,) Robert S. Lynde, his son, Rose Lynde, (widow of R. C. Cammack, dec'd,) his daughter.

23 That the widow Ramos died, leaving as her sole issue: 1st, Charles Omer Ramos; 2nd, Adelle Ramos; 3rd, Odile Ramos; that Charles Omer Ramos died and left issue: 1st, Omer Ramos, who died without issue; 2nd, Odille Ramos, wife of Edward Buisson; 3rd, Josephine Ramos, wife of Auguste Huard; 4th, Mathilda Ramos, who married Charles Lafitte, and died leaving issue: 1st, Ernest; 2nd, Antonia; 3rd, Berthe, minors represented as aforesaid; that said Adele Ramos died without issue; that said Odile Ramos married G. A. Livandais, and died leaving issue: 1st, Charles A. Livandais; 2nd, Adelle Livandais, wife of Charles Lafitte.

Wherefore your petitioners pray that this suit may be continued and prosecuted to final decree for the sole use and benefit, and in the proportions above set forth, of the said named persons.

24 That this supplemental petition be filed and that a copy of the

same be served upon the United States through their district attorney, and for costs & general relief.

(Signed) R. H. & J. L. BRADFORD,
Att'ys for Pet'rs.

Demurrer to original and supplemental petitions.--Filed December 15th, 1871.

In the district court of the United States for the district of Louisiana.

HEIRS OF JAMES INNERARITY *vs.* UNITED STATES. } No. 16. Land docket.

The demurrer of the United States, defendants, by J. R. Beckwith, their attorney, to the original & supplemental petitions of heirs of Ja's Innerarity:

25 Defendants, by protestation, not confessing or acknowledging any or all of the matters in said petitioners' petition to be true in such manner and form as the same are therein set forth and alleged, doth demur thereto and for cause of demurrer showeth: That the act of Congress approved 22d June, 1860, entitled "An act for the final adjustment of private land claims in the States of Florida, Louisiana, & Missouri, and for other purposes," and the act approved 2d March, 1867, entitled "An act to extend the provisions of an act entitled 'An act for the final adjustment of private land-claims in the States of Florida, Louisiana, and Missouri, and for other purposes,'" under the provisions of which this suit is assumed to have been instituted, expired, by limitation, on the first of March, 1869, and that no new parties plaintiff can now be made or substituted. (See U. S. vs. Patter-
26 son, 15 Howard, p. 12.) And for further cause of demurrer they say that the said plaintiffs, heirs of Ja's Innerarity, in and by their supplemental petition herein filed on the 4th December instant, judicially confess and admit that they have not and had not, at the time of filing their original petition, any right, in law or equity, to the lands claimed in their original petition; and further, defendant say & demur that the said complainants have not, in and by their said petition, made or stated such a case as doth or ought to entitle them to any such discovery or relief as is thereby sought and prayed for, from or against defendants. Wherefore defendants demand the judgment of this hon. court whether they shall be compelled to make any further or other answer to the said petition, or any of the matters and things therein contained, and pray to be herein dismissed, with their
27 most reasonable costs in this behalf sustained.

(Signed) J. R. BECKWITH,
U. S. Att'y, for Respondents.

I certify that the above demurrer is in my opinion well founded in law.

(Signed) J. R. BECKWITH, *Counsel.*

J. R. Beckwith, attorney of the United States, being sworn, says, that the foregoing demurrer is not interposed for delay.

(Signed) J. R. BECKWITH.

Sworn to and subscribed before me this 15 Dec'r, 1871.

(Signed) K. LOEW, *U. S. C.*

Hearing & submission of demurrer.—From the minutes of December
28 *16th*, 1871.

November term, 1871.

HEIRS OF J. INNERARITY
vs.
THE UNITED STATES. } No. 16.

The demurrer herein filed came up—R. H. & J. L. Bradford for plaintiffs; J. R. Beckwith, dist. att'y, for def'ts—

When, after hearing the pleadings and argument, the court took time to consider, and requested counsel to furnish their authorities.

Order: Demurrer overruled.—From the minutes of Jan'y 10, 1872.

HEIRS J. INNERARITY
vs.
THE UNITED STATES. } No. 16.

29 Ordered that the demurrer to the original & supplemental petitions be overruled, and that the defendants answer on or before the next rule-day.

Answer of the U. S.—Filed February 9th, 1872.

District court of the United States for the district of Louisiana.

The answer of the United States, by J. R. Beckwith, attorney of the United States for the district of Louisiana, to the petition and supplemental petition of Eloise Innerarity, wife of Lewis W. Minor, and James Innerarity and others, heirs of James Innerarity & others, plaintiffs.

Defendants, now and at all times hereafter, saving and reserving unto themselves all benefit and advantage of exception which
30 can or may be had or taken to the many errors, uncertainties, and other imperfections in the said plaintiffs' petition contained, and particularly saving and reserving all benefit and advantage of their demurrers herein filed, and insisting upon the same, for answer unto the said petition, or unto so much and such parts thereof as they are advised is or are material or necessary for them to make answer unto; these defendants, answering, saith: That they are ignorant whether any such grants or sales of land as are set forth in plaintiffs' petition were made to the persons therein named, in manner and form as alleged, and they therefore deny the same; that they are ignorant of the mesne conveyances by which the title thereto is alleged to have been transferred to the plaintiffs herein, and of their heirship of the parties alleged in their petition; and further defendants specially deny that the plaintiffs
31 herein are the heirs, devisees, legal representatives or grantees of Charles Ramos, under whom they claim title.

And further answering, defendants say, that if any grants or sale of lands, as in said petition alleged, were made by any competent authority under the Spanish government to the said Charles Ramos, which is denied, the same was never separated by actual survey and metes and bounds from the mass of public domain, and is, therefore, null and void, by reason of uncertainty of location and vagueness of description, and

defendants deny that the descriptive plats annexed to plaintiffs' petition as part thereof show with legal certainty or accuracy the locality of the said grant and the lands, and townships, or portions thereof which are covered by the same.

And further answering, defendants aver that under the 6th
32 section of the act of Congress, approved 22d of June, 1860, under which this suit is instituted, petitioner is entitled, in the event of the confirmation of the title by the court, and in case it shall appear that the lands claimed, or any parts thereof, have been sold by the U. S., or the surveyor-general, shall ascertain that the same, or any part thereof, cannot be surveyed or located, to enter upon public lands of the United States a quantity equal in extent to that sold by the Government, and by the 11th section of the said act, to a patent for so much as remains unsold and public. Defendants aver that it is nowhere in said petition alleged what quantity and portions of the lands claimed to be embraced within the limits of the said grant have been sold by the United States, or what portions thereof, according to the legal divisions and subdivisions of the surveys of the United States, remain
33 unsold & public, or cannot be surveyed and located by reason of any valid or legal cause; and that they are ignorant thereof, and require strict proof concerning the same.

And further answering, defendants say, that the said alleged grant to Ramos reserves in express terms any rights which third persons may have held or possessed in & to any part or portions of said lands. And that it appears, from the plat annexed to and filed with plaintiffs' petition, and the certificate of the surveyor-general thereon, that a very large portion of the lands in said alleged grant are covered by adverse claims, and it is nowhere in said petition averred or shown whether the said adverse titles under which said portions of said lands are held are titles emanating from the Government of the United States, or whether they are titles emenating from foreign governments formerly in
34 possession of or claiming sovereignty over the territory, and which have been subsequently recognized by the Government of the United States as valid & subsisting legal or equitable titles. And defendants specially deny that the said adverse titles are titles originating with and emenating from the Government of the United States.

And defendants deny that any other matter, cause, or thing in the said plaintiff's petition contained, material or necessary for them to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true to the knowledge and belief of defendants.

All which matters and things this defendant is ready and willing to aver, maintain, and prove as the honorable court shal' direct, and humbly pray to be hence dismissed, with their reasonable costs and
35 charges in this behalf most wrongfully sustained.

(Signed) J. R. BECKWITH,
U. S. Att'y for Respondent.

Replication to answer of the U. S.—Filed February 16th, 1872.

Replication.

To the honorable district court of the United States for the district of Louisiana.

The replication of Eliza Innerarity, wife of Louis W. Minor, and James Innerarity and others, heirs of James Innerarity & others, to the

United States, filed by the district attorney thereof, in the suit pending in this honorable court between the said replicants and the United States.

These replicants, saving and reserving unto themselves all and
36 all manner of advantage of exception to the manifold insufficiencies of the said answer, for replicating thereunto, say that they will aver and prove their said bill to be true, certain, and sufficient in the law to be answered unto, and that said answer of said defendant is uncertain, untrue, and insufficient to be replied unto by these repliants; without this, that any matter or thing whatsoever in said answer contained, material or effectual in law, to be replied unto, confessed and *advised*, traversed or denied is true; all of which matters, &c., and things, these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as by their said bill they have already prayed, &c.

(Signed) R. H. & J. L. BRADFORD,
Att'y for Complainants.

Memorandum of evidence offered for complainant.—Filed May 23rd,
37 1872.

HEIRS OF JAMES INNERARITY, *vs.* THE UNITED STATES. } No. 16. New land docket.

Evidence offered by complainants.

Document A.—Two plans in one exhibit, certified by E. W. Foster, sur.-general of La., on January 26th, 1871, and by Charles Barnard, register of the U. S. consolidated land-office at New Orleans, on Aug. 8th, 1871, exhibiting portions of townships 4, 5, & 6, south of range 1 east, in the late Greensburg dist., La., with the sub-divisional surveys of the U. S., in conflict with the protraction of the surveys by Spain, of the two tracts comprising the grant of 20,000 arpents to Charles Ramos, and the whole exhibiting the area of vacant lands & of land sold or alienated by the United States.

38 Document B.—Containing copies of 1st: Notice of claim by James Innerarity, ex'r of William Simpson, filed before the commissioner of land claims, west of Pearle River, on 24 July, 1814, presenting the claims of Charles Ramos for 20,000 arpen's.

2d. Two plans of the two tracts comprising said grant of 12,108 & 7,892 arpen's, respectively, made by V. S. Pintado, sp'*h* dep. surveyor, and duly recorded.

3rd. The two process verbals of surveys by Pintado, of the two tracts comprising the grant of 20,000 arpen's and of their appraisement, &c.

4th. The Spanish grant, or title in form of Juan Ventura Morales, intendant-general, &c., to Carlos Ramos of 20,000 arpen's, dated March 5th, 1804.

39 5th. Sale from Carlos Ramos to John Watkins and William Simpson of 20,000 arpen's, in equal portions, dated March 8th, 1804; & 6th, the certificate of Charles Barnard, register, &c., of 24 Nov., 1871, stating the foregoing are true copies from his records.

Document C.—Containing a translation into English of—

1st. The two process verbals of survey and appraisement by Pintado accompanying his 2 plans of survey of the grant of 20,000 arpen's to Ramos.

2nd. The Spanish grant by Morales to Ramos of the 20,000 arpen's of 5th March, 1805.

3rd. Sale from Ramos to Watkins & Simpson, of 20,000 arpen's, of the 8th March, 1804; and—

4th. Oath of Thomas E. Evershed, translator, to the foregoing translations.

40 Document "D."—Copy of last will and testament of William Simpson, certified by cl'k of 2nd dis't c't of the parish of Orleans.

Doc't E.—Process verbal of the opening & proof of the last will & testament of William Simpson, certified as a true copy.

Document "F."—Copy of original act of sale from Charles Ramos to Simpson & Watkins, of 20,000 arpen's, dated March 8th, 1805, certified by Andrew Hero, custodian of national records.

Document "G."—Affidavit of Henry Gascon, chief clerk of the sur.-gen'l of L'a, showing the origin of all titles, except sales by the U. S., in conflict with the surveyed grant to Ramos of 20,000 arpen's.

Document "H."—Supplemental affidavit of Henry Gascon, ch'f cl'k, & showing dates of titles, except sales, in conflict with the grant to Ramos.

Document I.—Comprising—

41 1st. The affidavit of E. Wooldridge, showing death of Dr. John Watkins and the names and number of his heirs.

2nd. Affidavit of E. R. Hogan, showing death of John Watkins, son of Dr. John Watkins, and the names, number, and ages of his heirs.

Document "J."—Articles of agreement between John Lynd & the house Forbes & Co., dated April 30th, 1806.

Doc't K.—Original letter of James Innerarity to John Lynd, of Nov. 4th, 1813, with accompanying unauthenticated copy of same.

Document "A."—Filed May 23d, 1872.

(See foto of transcript.)

42 *Document "B."—Filed May 23rd, 1872.*

Notice. No. .

To James O. Cosby, esq., commissioner of land-claims west of Pearl River:

SIR: You will please to take notice that, on behalf of James Innerarity, of Mobile, executor to the estate of the late William Simpson, of New Orleans, merchant, and for the benefit of said estate, a claim is hereby laid to four thousand seven hundred and fifty arpen's, being an undivided fourth part of two tracts of land containing in whole 20,000 arpen's, less 1,000 arpen's, viz: One tract containing twelve thousand one hundred and eight arpen's, situated on the west bank of the river S't Helena or Amit, about twenty-six and three-quarter miles south of the line of demarcation between Spain and the United States, bounded on the north by lands occupied by Mr. Patrico Forbes; on the

43 west by vacant lands at the time of issuing the title; on the south by lands occupied by Mr. Edward Ross, and on the east by the said river Amit. One other tract, containing seven thousand eight hundred and ninety-two arpen's, situated on the western bank of Santa Rosalia or Sandy Creek, about three short miles from its confluence with the river Amit, and about twenty-two miles south of the thirty-first degree of north latitude or line of demarcation between the domin-

ion of Spain and the United States, bounded on the east by said Sandy creek, and on all other sides by lands vacant at the time of issuing the title, as will more fully appear by the surveys and titles issued by the Spanish government of West Florida, dated 5th March, 1804, herewith accompanying, by virtue of which the said claim is preferred, and also by virtue of a deed of sale from the first purchaser of same,
44 Charles Ramos, to the said William Simpson and Jno. Watkins, dated March 8th, 1804, which sale was confirmed by the widow of said Ramos, by her attorney, Don Antonio Cruzat, the 22d of November, 1808; with the reserve as aforesaid of one thousand arpen's, as more fully appears by the notarial copies of said sales also accompanying the other undivided fourth part of said land, having been subsequently transferred by the said Simpson to John Lynd of New Orleans.

S't Helena, July 24th, 1814. Written evidence of notice No. , Span-gov'nt to Ch's Ramos.

JAMES INNERARITY,
Executor to the Estate of the Late William Simpson.
(Signed) EDWARD J. FORSTALL.

Letters-patent 20,000 *arpen's, dated March* 5, 1804.

45 Dn. Vicente Pintado, agrimensor general de la Florida Occidental, certifico que en el lib. D R 4, a mi cargo al fol. 102, baxo el No. 1702, &c., se halla el plano figurativo de arriba y al mismo fol. y vuelta la diligencia de apeo registrado por mi antecesor el capitan Dn. Carlos Trudeau, cuyo tenor es á la letra como sigue:

Don Vicente Sebastian Pintado, capitan de cavalleria de milicias y segundo agrimensor de esta provincia, certifico: que fué medido y lindado á favor de Don Carlos Ramos, un terreno de doce mil quatro y ocho arpanes planos, medidos á la percha de Paris de diez y ocho pies de la misma ciudad, contando cien perchas planas por arpan, segun costumbre agraria en esta provincia, cuyo terreno situado en el nuevo establecimiento de Sta. Helena, jurisdiccion de Baton Rouge, y
46 en la margen occidental del rio de Sta. Helena ó Amit, á veinte y seis millas y tres quartos al sur de la linea de limites entre estos dominios de S. M. y los Estadas Unidos de America, linda por la parte septentrional con tierras ocupadas por Patricio Forbes y vacantes; por la meridional con dhas. ocupadas por Dn. Eduardo Ross y Valdiaz; por la oriental con el antedicho rio Amit, y con el arroyo de Sta. Rosalia, vulgarmente llamado Sandy Creek, y por la occidental con tierras vacantes como mas claramente manifiesta el plano de la vuelta, en el que va figurado el terreno marcado con carmin lo que pertenece á el, con mas las dimenciones de sus lados anotados en perchas lineales, las directiones de los limites segun la brujula, la declinacion N. E. de esta, los arboles y mojones que sirven de linderos, y los demas confines naturales y artificiales. Los dichos doce mil quatro y ocho arpanes
47 planos, hacen parte de los veinte mil arpanes, que el interesado compró de la rl. hacienda y que mandó medir y estimar el sor. intendente general, segun su despacho de primero de Octubre ultimo, dirigido al Sor. Dn. Carlos de Grand-Pré, coronel de los reales exercitos, gobernador politico y militar de esta plaza y subdelegado de la intendencia general por quien me fué comunicado, y habiendo nombrado dicho sor. gobernador y subdelegado por peritos estimadores, á Don Pedro Allin y Dn. Felix Bernardo Dumontier por lo respectivo á la rl. hacienda, el apoderado del interesado por lo que es Dn. Samuel Fulton, nombró por su parte á Felipe Hicky y Dn. Bernardo Dubroca, segun

consta por diligencia; cuyos estimadores asistidos de los testigos Valentin Thomas Dalton y Luis Delatte, avaluaron el antedicho terreno, á razon de doze sueldos por cada arpan plano; lo que resto por
48 el antedicho apoderado de la parte se conformó y recivió comprado dicho terreno, y de el se dio por entregado á su voluntad y lo firmo con los estimadores y testigos en Baton Rouge á diez y seiz dias del mes de Deciembre de mil ochocientos y tres años.

SAMUEL FULTON.
VICENTE SEBASTIAN PINTADO.
PEDRO ALLIN.
FELIX BERNARDO DUMONTIER.
FELIPE HIKY.
BERNARDO DUBROCA.
V. F. DALTON.
LUIS DELATTE.

Sentado en el presente libro en virtud del decreto del sor. intendente general, en fecha diez del presente mes de Enero de corriente año, quinze de Febrero de mil ochocientos y quatro años mia rublica.

Concuerda con la partida que se halla en dicho libro á que me refiero; y á pedimiento de parte doy la presente, en la plaza de Panzacola á los veinte y tres dias del mes de Septiembre de mil ochocientos y siete años.

49 VICENTE SEBASN. PINTADO.

Dn. Vicente Sebastian Pintado, agrimensor general de la Florida Occidental, certifico que en el lib. D K 4, a mi cargo al fol. 103, baxo el No. 1703, se halla el plano figurativo de arriba y al mismo fol. y vuelta, la diligencia de apeo registrado por mi antecesor el Capitan Dn. Carlos Trudeau, cuyo tenor es á la letra como sigue:

Dn. Vicente Sebastian Pintado, capitan de caballeria de milicias y segundo agrimensor de esta provincia, certifico: que fué medido y lindado á favor de Dn. Carlos Ramos, un terreno de siete mil ocho-
50 cientos noventa y dos arpanes planos, medidas á la percha de Paris, de diez y ocho pies de la misma ciudad, contando cien perchas planas por arpan, segun costumbre agraria en esta provincia, cuyo terreno situado en la jurisdiction de Baton Rouge, en el nuevo establecimiento de Sta. Helena, y en la margen occidental del arroyo de Sta. Rosalia, vulgarmente llamado Sandy Creek, á tres millas cortas de su confluencia con el Amit, la parte mas sur del terreno, y la mas N. á veinte y dos millas al sur de los treinta y un grados, ó linea de limites entre estos dominios de S. M. y las posesiones americanas, linda por la parte del oriente con el antedicho arroyo de Santa Rosalia, y por los demas lados con tierras vacantes como se ve figurado en el plano que antecede, como tambien la forma y figura del terreno con sus dimensiones en perchas lineales, sus direcciones segun la *bozue*la, la declinacion N.
51 E. de esta, los arboles y mojones que sirven de linderos, y los demas confines naturales y artificiales. Los dichos siete mil ochocientos noventa y dos arpanes hacen parte de los veinte mil arpanes que el interesado compra de la real hacienda, y que mandó medir y apreciar el sor. intendente general por su despacho de primero de Octubre ultimo, que me fué comunicado por el Sor. Dn. Carlos de Grand Pré, coronel de los reales exercitos, gobernador politico y militar de esta plaza, y subdelegado de la intendencia general, por cuyo sor. fueron nombrados por peritos estimadores por lo respectivo á la real hacienda, á Dn. Pedro Allin y Dn. Felix Bernardo Dumontier, y habiendo

Dn. Samuel Fulton, apoderado del interesado, nombrado por su parte á Dn. Felipe Hicky y Dn. Bernardo Dubroca, estos conjuntamente
52 con los primeros, y con asistencia de los testigos Valentin Thomas Dalton y Luis Delat, estimaron dicho terreno, á razon de onze sueldos por cada arpan plano: Lo que visto por Dn. Samuel Fulton se conformó y recibió comprado dho. terreno de el se dio por entregado á toda su voluntad, y lo firmo con los estimadores y testigos en Baton Rouge, á doze dias del mes de Diciembre de mil ochocientos y tres años.

SAMUEL FULTON.
VICENTE SEBASTIAN PINTADO.
PEDRO ALLIN.
FELIX BERNARD DUMONTIER.
FELIPE HICKY.
BERNARDO DUBROCA.
V. F. DALTON.
LUIS DELAT.

Sentado en el presente libro, en vertud del decreto del sor. intendente general con fecha diez Enero del presente año. Febrero quinze de mil ochocientos y quatro años.
53 Concuerda con la partida que se halla en dicho libro, á que me refiero, la que se halla rubricada por el citado capitan agrimensor gral. que fué; y á pedimento de parte doy la presente en la plaza de Panzacola, á los veinte y tres dias del mes de Septiembre de mil ochocientos y siete años.

VICENTE SEBASN. PINTADO.

Dn. Juan Ventura Morales, contador de exercito, intendente y superintendente interino de la provincia de la Florida Occidental, ministro encargado para el arreglo y conclucion de los asuntos de real hacienda en esta de la Louisiana.

Por cuanto habiendose presentado en este tribunal, Dn. Carlos Ramos, solicitando la concesion de veinte mil arpanes de tierra planos, en el distrito de Baton Rouge, ofreciendo por su importe, á tazacion
54 un tercio del valor al contado, otro en el termino de seis meses, y el resto al año desde la expedicion del titulo, dando las seguridades competentes á la rl. hacda. que para motivarse este espediente mandé que por secretaria se pusiese copia certificada del oficio dirigido por esta intendencia á los sres. comisarios de la entrega de esta provincia, de resultas de la solicitud de comprar cinquenta mil arpanes que hizo Dn. Thomas Urquhart, y de la repuesta que diéron sus señorias, que se diese vista al señor fiscal; que puestas las indicadas copias, y consintiese dicho señor fiscal, en la solicitud pidiendo en consequencia dispachase al sor. coronel Don Carlos de Grand-Pré, gobernador de Baton Rouge, para que nombrase dos habitantes expertos, que en calidad de estimadores con otros dos que señalase el comprador, y
55 con el agrimensor y dos testigos de asistencia se procediese al justiprecio, apeo, y deslinde de los veinte mil arpanes de tierra, y que remitiese las diligencias para la expedicion del titulo baxo las condiciones propuestas por el pretendiente, á que provey se copiase á continuacion testimonio del decreto con que se pasó á la consulta de sor. auditor de guerra el espediente promovido par el citado Urquhart, sobre la solicitud expresada, y del dictamen que dio dicho sor. en consequencia; que cumplido este mandé librar el despacho pedido por el

sor. fiscal al sor. gobernador de Baton Rouge, con insercion de la actuation y habiendo en su virtud practicado las necesarias en aquella subdelegacion, y practicadose la medida, deslinde y apeo de los veinte mil arpanes de tierra planos, que resultaron en dos paños distintos y separados, comprehendiendo el primer plano doce mil ciento ocho ar-
56 panes, y el segundo siete mil ochocientos noventa y dos, se tazaron aquellos á diez sueldos cada arpan, y estos á onze, con las formalidades convenientes de que mandé dar vista al sor. fiscal; y contextado pidio se adjustase el valor de estas tierras, y que hecho el entero en caxas reales se despachase el titulo; que en seguida mandé pasar el expediente al agrimensor gral. Dn. Carlos Trudeau, para que examinase las operaciones del particular Dn. Vicente Pintado, y que hallandolas conformes tomase razon en sus libros de los planos que componian los veinte mil arpanes de tierra planos, solicitados por el mencionado Dn. Carlos Ramos, y para que proveyese de los duplicados para unirlas á este titulo; que evaquado este por auto de veinte y uno de Febrero del corriente año, previne que por el ministerio de r. hacda. se formase la liquidacion, ó ajuste del valor en que fuéron tazados
57 los veinte mil arpanes de tierra mencionados, y que constando por carta del pago el entero en rls. caxas del tercio que se ofrecio á pagar de contado, con lo correspondiente de la media anata, y conduccion, y otorgada la escritura de seguro por el resto, segun prometio el comprador se le despachase el titulo de propiedad, en forma que en este estado propuse Dn. Carlos Ramos pagar por entero el total valor de los veinte mil arpanes, en certificaciones de credito despachadas por este ministerio, suplicandose le admitiesen en pago, de que de traslado el sor. fiscal, quien contexto combiniendose con la proposition del citado Dn. Carlos Ramos y desde luego providencia se admitiese el importe en las certificaciones de credito que proponia; y tirase la carta de pago, y se observase lo prevenido en el antecitado de veinte y
58 uno de Febrero referido; que por certificacion del ministerio de real hacienda de primero del corriente consta que el referido Dn. Carlos Ramos enteró en arcas reales diez y siete mil ciento veinte y dos reales, diez y siete maravedis de plata los diez y seis mil seiscientos treinta y uno y medio por el importe de los veinte mil arpanes de tierra planos, al respecto de diez sueldos doce mil ciento ocho, y á onze los siete mil ochocientos noventa y dos, que comprehenden los dos medidas, y planos figurativos levantados y las quatrocientos noventa y un reales, restantes por el decreto de dos y medio por ciento de media anata, y diez y ocho por ciento de conducion á España. En cuya virtud y constando del primer plano, dado por el agrimensor Dn. Carlos Trudeau, distinguido con el No. 1702, doce mil ciento ocho arpanes de tierra,
59 parte de los veinte mil, estan situados en el nuevo establecimiento de Santa Helena, jurisdiccion de Baton Rouge y en la margen occidental del rio de Santa Helena ó Amit á 26 millas y tres quartos al sur de la linea de limites entre los dominios de S. M. C. y los Estados Unidos de America, lindando por la parte septentrional con tierras occupadas por Patricio Forbe, y vacantes; por la meridional con las que tiene Edouardo Ross, y valdias; por la oriental con el dicho rio Amit y con el ar'oyo de Santa Rosalia, llamado Sandy Creek, y por la occidental con tierras vacantes; que por el segundo plano No. 1703 comprehensivo de siete mil ochocientos noventa y dos arpanes, con que se completan los veinte mil de que se trata, se evidencia que estos estan situados en el distrito de Baton Rouge, y nuevo establecimiento de Santa Hele-
60 na, en la margen occidental del arroyo Santa Rosalia, llamado Sandy Creek, á tres millas cortas de la confluencia con el Amit la

parte mas sur de terreno, y la mas norte á veinte y dos millas al sur de los treinta y un grados, ó linea de limites referidos, lindando por el oriente con el antedicho arroyo de Santa Rosalia, y con tierras vacantes por los demas lados; que para la constancia, conocimiento é inteligencia de los dos indicados paños de tierra, sus linderos, situacion, rumbos y distancias, se pondran à contumacion los dos planos contenidos de los mencionados veinte mil arpanes. Por tanto, y usando de las facultades que me son conferidas en nombre del rey n. sor. (Dios le gude.) concedo al individuo Dn. Carlos Ramos los veinte mil arpanes de tierra planos que ha pedido, comprado y pagado á la rl. hacienda,
los mismos que se contienen en las dos medidas y planos de que
61 se ha tratado, vaxo los linderos expresados, parajes, rumbos y
distancias que se han mencionado, y de que hacen relacion los mismos planos, para que como suyos, los expuestos veinte mil arpanes, y como comprados y pagados por el mismo á la rl. hacienda, los posea, cultive y disponga de ellos á su voluntad, á cuyo efecto le imparto entero y directo dominio de ellos. Y le doy poder para que aprehenda la posecion; y en la que le pongo y amparo sin perjuicio de tercero que mejor derecho tenga; con la calidad que ha de cumplir con lo dispuesto en la instruccion que sobre tierras formo y publicó esta intendencia en 17 de Julio de 1799, de que se le advierte para que no trato de ignorancia. En fé de lo cual, mandé despachar el presente, firmado de mi mano,
sellado con el de mis armas, y refrendado del infrascrito excmo.
62 de rl. hacda. quien, como la contaduria pral. tomará la razon.
Dado en la Nueva Orleans á cinco de Marzo de mil ochocientos quatro.

JUAN VENTURA MORALES.

Por mando de sor intendente.

CARLOS XIMENES.

Queda tomada razon del titulo antecedente á L. 61, 62, y 63 del libro de ellos destinado para las de esta clase.

CARLOS HIMENES.

Por la contaduria pral. de exo. del ministo. de real hacda. de nuestro cargo, se tomó razon del titulo antecedente y se noto al folio 44 y 45, del libro destinado à este fin. Nueva Orleans, seis de Marzo de 1804.

GEBBERTO LEONARD.
MANUEL RAMIREZ.

63 Pardevant nous, Narcisse Broutin, notaire public des États-Unis d'Amérique, en la ville de la Nouvelle-Orléans, et des témoins ci-après nommés, fût présent le sieur Charles Ramos, habitant de cette ville; lequel a, par ces présentes, vendu, cédé, et transporté dès maintenant et à toujours, et promet garantir de tous troubles, dons, dettes, hypothèques, évictions, substitutions ou autres empêchements quelconques aux sieurs Guillaume Simpson, et Jean Watkins, à ce présent, et acceptant pour eux, leurs héritiers, successeurs, ou ayant-causes, une terre de ving' mille arpens de superficie, situé dans le district de Baton Rouge, nouvel établissement de Ste. Héléna, altenant par la partie septentrional aux terres occupé par Mr. Forbes, et vacantes, et par la partie méridional aux terres de Edward Ross, à la partie oriental avec
la rivière Amit et au ruisseau de Ste. Rosalie, nommé Sandy
64 Creek, et par l'occidental aux terres vacantes; laquelle terre ap-

partient audit vendeur pour l'avoir acheté de S. M. C., suivant les titres qu'il a remis aux acquéreurs, pour par lesdits sieurs jouir, et disposer de ladite terre comme de chose à eux appartenante, à commencer leurs jouissances dès ce jour, ladite vente faite pour et moyenant le prix et somme de vingt mille piastres-gourdes, que lesdits sieurs acquéreurs ont tout présentement complété en espèce de gourdes, dont du tout ledit vendeur qui les a reçu, tient quitte et décharge les sieurs acquéreurs, leurs transportant tous droits de propriété et autre, qu'il a et peut avoir sur ladite terre présentement vendue dont il s'est démis et désais'i au profit de' sieurs acquéreurs, leurs hoirs, successeurs et ayant-causes, voulant qu'il soit saisi par et ainsi qu'il appartiendra, constituant pour cette fin le porteur des présentes, car aussi a été faite, voulu et con-
65 senti entre les parties; lesquels pour l'exécucion des présentes et de leurs dépendances ont élu leur domicile, chacun en leur demeure susdite, auquel lieu nonobstant, &c., promet, &c., obligate, &c., renonçant, &c.

Fait et passé en l'étude, ce huit mars mil huit cent quatre, et la vingt-huitièmme année de l'indépendance des États-Unis de l'Amérique, en présence des sieurs Antoine Fromentin et Félipe Guinault, témoins, habitants et présents qui ont signé avec les comparants. En foi de quoi nous, dit notaire, avons apposé notre seing et le sceau de notre office ce jour et an que dessus.

CHARLES RAMOS.
WILLIAM SIMPSON.
L. WATKINS.
GUINAULT.
FROMENTIN.
NARCISSE BROUTAIN,
Notaire public.

[SCEAU.]

Délivré la présente copie conforme à l'original resté entre mes mains, Nouvelle-Orleans, ce huit mars 1804, et la 28me année de l'indépendance des États-Unis de l'Amérique.

[SCEAU.] NARCISSE BROUTAIN,
Notaire public.

66 UNITED STATES CONSOLIDATED LAND-OFFICE,
New Orleans, Louisiana.

I, Charles Barnard, register, do certify that the foregoing sixteen pages & this page, having been carefully compared with the record in this office, are found to contain a true, exact, and literal copy of the two process-verbal & grants of 20,000 arpents made to Carlos Ramos by Spain, as the same appear of record in book C No. 2, (No.) of Charles O. Cosby's records.

And I further certify that the notice of claim and the two plats of survey preceding the said sixteen pages are true, literal, and exact copies of the original record of said notice & of said plats, numbered respectively 1702 & 1703, being plats of the two tracts of the 20,000 arpen's, grants to Charles Ramos, July 22d, 1871.

CHARLES BARNARD,
Register.

67 And I do hereby further certify that the preceding copy of the sale or transfer from Carlos Ramos to Simpson & Watkins, of the twenty thousand arpents of land, as passed before Narcisse Brotin, no.

tary public, &c., on the 8th of March, 1804, is a true, literal, and correct copy of the same, as it appears of record in my office in book C, No. 3, being the original record-book of the commissioner, James O. Cosby.

New Orleans, La., Nov. 24th, 1871.

CHARLES BARNARD,
Register.

Document C.—Translation.—Filed May 23d, 1872.

Don Vicente Pintado, surveyor-general of Western Florida: I (do) certify that in the book D K 4, under my charge, at folio 102,
68 bearing the number 1702, is to be found the above figurative plan, and at the same folio and opposite side thereof the proceedings or return of survey registered by my predecessor, Captain Charles Trudeau, the purport whereof is literally as follows:

Don Vicente Pintado, captain of militia cavalry, and deputy surveyor of this province: I (do) certify that there has been measured and the boundaries defined, in favor of D'n Carlos Ramos, a tract of land of twelve thousand four hundred and eight superficial arpents, measuring, by the perch of Paris of eighteen feet of the said city, counting one hundred superficial perches to the arpent, agreeably to the agrarian custom in this province; which said tract of land, situated in the new settlement (establicimiento) of Saint Helena, jurisdiction of Baton
69 Rouge, and on the west bank of the river Saint Helena, or Amit, at twenty-six miles and three-fourths to the south of the boundary-line between these dominions of his Majesty and those of the United States of America, bounds on the north with lands occupied by Patricio Forbes and vacant lands, on the south with those occupied by Don Eduardo Ross and waste (uncultivated) lands, on the east with the aforesaid river Amit and with the Santa Rosalia Creek, commonly called Sandy Creek, and on the west with vacant lands, as is more clearly shown by the plan, (on the opposite side of the folio,) wherein is delineated the tract of land, having traced with carmen (red ink) that which appertains to it; with also the dimensions of its sides (boundaries) set down in lineal perches, the directions of the boundaries
70 according to the compass, the declination of which is N. E., the trees and mounds which serve as land-marks, & other natural and artificial limits. These said twelve thousand four hundred and eight superficial arpents form part of the twenty thousand arpents which the party in interest bought of the royal treasury, (real hacienda,) and which the señor intendant-general ordered to be measured and valued agreeably to his order of the first of October last, addressed to the Señor Don Carlos de Grandpré, colonel of the royal army, civil and military governor of this post, (plaza,) and subdelegate of the general intendency (intendencia) general, by whom it was to me communicated. And said señor governor and subdelegate having appointed as experienced appraisers Don Pedro Allin and Don Felix Bernardo Dumontier on behalf of the royal treasury, the agent of the party in inter-
71 est, which agent is Don Samuel Fulton, appointed on his part, Felipe Hicky, and Don Bernardo Dubroca, as appears from the proceedings thereof, which said appraisers, assisted by the witnesses, Valentin Thomas Dalton and Louis Delatte, did appraise the aforesaid tract of land at the rate of twelve cents for each superficial arpent, all of which having been considered by the agent of the party in interest, he conformed himself thereto and received the said tract of land as purchased, and acknowledged himself as put in possession thereof to his

satisfaction, and, with the appraisers and witnesses, did sign these presents, in Baton Rouge, in the sixteenth day of the month of December, of the year one thousand eight hundred and three:

SAMUEL FULTON.
VICENTE SEBASTIAN PINTADO.
PEDRO ALLIN.
FELIX BERNARDO DUMONTIER.
FELIPE HICKEY.
BERNARDO DUBROCA.
V. T. DALTON.
LOUIS DELATTE.

72 Entered in the present book, in accordance with the decree of the señor intendant-general, under date of the tenth of the present month of January, of the current year. Fifteen' of February of the year one thousand eight hundred and four.

My (rubrica) paraphe.

This agrees with the portion which is to be found in said book to which I refer; and, at the request of the interested party, I give these presents in the post (plaza) of Pensacola, on the twenty-third day of the month of September, of the year one thousand eight hundred and seven.

VICENTE SEBAS'N PINTADO.

Don Vicente Sebastian Pintado, surveyor-general of the Western Florida: I (do) certify that in the book D K 4, under my charge, at folio 103, bearing the No. 1703, is to be found the above figura-
73 tive plan, and at the same folio and opposite side thereof the proceedings or return of survey registered by my predecessor, Captain Don Carlos Trudeau, the purport whereof is literally as follows:

Don Vicente Sebastian Pintado, captain of militia cavalry, and deputy surveyor of this province: I (do) certify that there has been measured and the boundaries defined in favor of Don Carlos Ramos, a tract of land of seven thousand eight hundred and ninety-two superficial arpents measured by the perch of Paris, of eighteen feet of the said city, counting one hundred superficial perches to the arpent, agreeably to the agrarian custom in this province, which said tract of land, situated in the jurisdiction of Baton Rouge, in the new settlement of
74 S'ta Helena and on the west bank of the creek S'ta Rosalia, commonly called Sandy Creek, at three short miles from its junction with the Amit, the souther'most portion of the tract, and the nother'most portion at twenty-two miles to the south of the thirty-one decrees, or boundary-line between these dominions of His Majesty and the American possessions, bounds on the east with the aforesaid creek S'ta Rosalia, and on the other sides with vacant lands, as is seen represented in the preceding plan, showing likewise the shape and figure of the tract of land with its dimensions in the lineal perches, its courses by the compass, the declination being N. E., the trees & mounds which serve as land-marks, and the other natural & artificial limits. These said seven thousand eight hundred and ninety-two arpents form
75 part of the twenty thousand arpents which the interested party bought of the royal treasury, and which the señor intendant-general ordered to be measured & appraised, in his order of the first of October last, which was communicated to me by the Señor Don Carlos De Grand Pré, colonel of the royal army, civil and military

governor of this post, and subdelegate of the general intendency, by which said señor were appointed as experienced appraisers, on behalf of the royal treasury, Don Pedro Allin and Don Felix Bernardo Dumontier; and Don Samuel Fulton, agent of the party in interest, having appointed, on his part, Don Felipe Hickey and Don Bernardo Dubroca, these conjointly with the first, and with the attendance of the witnesses, Valentin Thomas Dalton and Louis Delat did appraise said tract of land at the rate of eleven cents per each superficial arpent.
76 All of which having been considered by Don Samuel Fulton, he conformed himself thereto, and received said tract of land as purchased, and acknowledged himself as put in possession thereof to his entire satisfaction, and with the appraisers and witnesses did sign these presents in Baton Rouge, on the twelfth day of the month of December, of the year one thousand eight-hundred and three.

SAMUEL FULTON.
VICENTE SEBASTIAN PINTADO.
PEDRO ALLIN.
FELIX BERNARDO DUMONTIER.
FELIPE HICKY.
BERNARDO DUBROCA.
V. T. DALTON.
LOUIS DELAT.

Entered in the present book in accordance with the decree of the señor intendant-general, under date of tenth of January of the present year. February fifteenth of the year one thousand eight hundred and four. This agrees with the portion which is to be found in said
77 book, to which I refer, which portion is found paraphed (rubricada) by the forementioned captain, who was surveyor-general, and at the request of the party interested I give these presents in the post of Penzacola on the twenty third day of the month of September of the year one thousand eight hundred and seven.

VICENTE SEBASTIAN PINTADO.

Juan Ventura Morales, comptroller of the army, intendant and superintendant ad interim of the province of West Florida, officer intrusted with the adjustment and settlement of the affairs of the royal treasury in the province of Louisiana.

Whereas Don Carlos Ramos has presented himself before this tribunal, soliciting the grant of twenty thousand superficial arpents
78 of land in the district of Baton Rouge, offering for its full amount, by appraisement, one-third of the value in cash, the other at the end of six months, and the balance at one year from the issuing of the title, giving the sufficient securities to the royal treasury, in order to give rise to these proceedings, (expediente,) I ordered that there should be made out by the secretary's office a certified copy of the official letter addressed by this intendency to the commissioners for the transfer of this province, also of the final result of the application which Don Thomas Urquhart made to purchase fifty thousand arpents, and of the answer which their excellencies (señorias) (said commissioners) gave, so that the same should be submitted to the (señor fiscal) officer of the exchequer, that the indicated copies being made out; and
79 said señor fiscal having acquiesced in the application requiring that the same should be transmitted to the s'or Colonel Don Carlos de Grand Prè, governor of Baton Rouge, so that he (said governor) might appoint two experienced citizens, who, in the character of

appraisers, with two others, to be designated by the purchasor, and with the surveyor and two assisting witnesses, should proceed to the appraisement, survey, and demarcation of the twenty thousand arpents of land, and that they should make return of the proceedings thereof for the issuing of the title, in accordance with the conditions proposed by the petitioner, for which purpose it was provided that there should be copied in connection therewith the evidence of the decree, by which was
referred to the advice of the señor auditor of war (auditor de
80 gerra) the proceedings had by the aforesaid Urquhart in relation
to his aforementioned application, and also a copy of the decision rendered therein by said s'or, (auditor,) and this being fulfilled I ordered the decree asked for by the s'or fiscal to be sent to the governor of Baton Rouge, with insertion of the deliberation thereon, and in consideration thereof, all that is necessary having been done by this subdelegation, and there having been made the measurement, demarcation, and survey of the twenty thousand superficial arpents, which turned out to be made in two parcels, distinc' & separate, the first plan comprising twelve thousand one hundred and eight arpents, and the second, seven
thousand eight hundred and ninety-two, they were appraised,
81 those of the first parcel at ten cents each arpent, and these of the
second at eleven cents, with the necessary and proper formalities, which I ordered transmitted to the s'or fiscal, who answered and required that the value of these lands should be adjusted, and that the payment thereof being made in the royal coffers, that the title should be delivered; and that, consequently, I further directed to refer these proceedings to the surveyor-general, Don Carlos Trudeau, for him to examine the operations of the aforesaid Don Vicente Pintado, and if he found them correct he should record in his books the plans which comprise the twenty thousand superficial arpents petitioned for by the aforementioned Don Carlos Ramos, and that he should be provided with
the duplicates, so as to annex them to this title; all of which
82 having been done, I directed, by a decree of the 21st of February,
of the present year, that there should be made by the minister of the royal treasury the liquidation or adjustment of the value at which were appraised the aforementioned twenty thousand arpents of land, and it appearing by the receipt of payment that the collection was made in the royal coffers, of the third offered to be paid in cash, with the corresponding half-yearly tribute (media annata) and transportation, and the warranty in writing for the balance being executed in accordance with the promise of the purchasor, I also directed that there should be delivered to him the title of property in due form; that under these circumstances, he, D'n Carlos Ramos, did propose to pay in the royal coffers
the whole value of the twenty thousand arpents in certificates of
83 credit issued by this ministry, asking that they be admitted
in payment, which I left to the reference of the s'or fiscal, who answered that he approved the proposition of the aforementioned Don Carlos Ramos, and that immediately after the disposition of these measures the whole amount should be admitted in the proposed certificates of credit, and that the receipt of payment should be drawn up, and that there should be taken due notice of that which was decreed on the before-mentioned twenty-first of February referred to; that by the certificate of the ministry of royal hacienda of the first instant it appears that the aforesaid D'n Carlos Ramos paid into the royal coffers
seventeen thousand one hundred and twenty-two (reales) bitts,
84 and seventeen maravedis of silver, sixteen thousand six hundred
and thirty-one and a half thereof for the full amount of the twenty

thousand arpents, all at the rate of ten cents for the twelve thousand one hundred and eight (arpents) and at eleven cents for the seven thousand eight hundred & ninety-two (arpents,) which are embraced in the two surveys & plans as made out, and the remaining four hundred & ninety-one (reales) bitts for the decree of 2½ per cent. half-yearly tribute, and 18 per cent. for its transportation to Spain. In virtue whereof, and it appearing from the first plan given by the surveyor, Don Carlos Trudeau, marked with the No. 1702, that twelve thousand one hundred and eight arpents of land, part of the twenty thou-
sand, are situated in the new settlement of S'ta Helena,
85 jurisdiction of Baton Rouge, and on the west bank of the
river Saint Helena or Amit, at 26 and three-fourths miles to the south of the boundary-line between the dominions of His Catholic Majesty and the United States of America, bounding on the north by lands occupied by Patricio Forbe, and vacant lands; on the south by those owned by Edouardo Ross, and uncultivated lands; on the east by the said river Amit, and by the creek of Santa Rosalia, called Sandy Creek; and on the west by vacant lands. And it appearing, also, from the second plan, No. 1703, comprising seven thousand eight hundred and ninety-two arpents, which complete the twenty thousand arpents in question, that it is shown that these are situated in the district of Baton
Rouge and new settlement of Santa Helena, on the west bank
86 of the creek Santa Rosalia, called Sandy Creek, at three short
miles from the junction with the Amit, the southernmost portion of the tract, and the northernmost (portion) at twenty-two miles to the south of the thirty-one decrees or boundary-line referred to, bounding on the east with the aforesaid creek of Santa Rosalia, & with vacant lands on the other side. And for the establishing of, the knowing of, the better understanding, the two indicated parcels of land, their boundaries, location, courses, & distances, there shall be appended the two plans, embracing the twenty thousand mentioned arpents.

Now, therefore, and in conformity with the authority which is conferred upon me in the name of the King our lord, (whom God may pre-
serve,) I grant to the said mentioned Don Carlos Ramos the
87 twenty thousand superficial arpents of land he has asked for,
bought and paid for, to the royal treasury, being the same (twenty thousand arpents) which are embraced in the measurements & plans in question, agreeably to the boundaries designated, the localities, courses, and distances which have been mentioned, and of which the plans themselves make mention, so that as his own, for having bought them and paid for them, the said designated twenty thousand arpents, himself, to the royal treasury, he may posses', cultivate, and dispose of them at his pleasure, for which purpose I impart to him entire and direct sovereignty over them. And I authorize him to take the possession wherein I place and maintain him without prejudice to any third
party who may have a better right, with the condition that he
88 is to comply with what is directed in the instruction upon lands,
which this intendancy made and published on the 17th of July, 1799, of which I give him warning that he may not plead ignorance.

In faith of which I ordered these presents to be made out, signed by my hand, sealed with my coat of arms, and countersigned by the undersigned notary of the royal (hacienda) treasury, who, as well as the principal comptroller, will make a record thereof.

Given in New Orleans, on the fifth of March, 1804.

JUAN VENTURA MORALES.

By order of the s'or intendant:

CARLOS XIMENES.

Record was made of the foregoing title at p. 61, 62, & 63, of the book of titles, destined for registry of titles of this nature.

89 CARLOS XIMENES.

Record was made by the principal comptrollership of the army of the ministry of the royal treasury under our charge, of the foregoing title, and it was entered at folio' 44 & 45 of the book destined to this purpose.

New Orleans, 6th of May, 1804.

MANUEL RAMIREZ.
GILBERTO LEONARD.

Before me, Narcisse Broutin, notary public of the United States of America, in the city of New Orleans, and the witness hereinafter named, was present Charles Ramos, esq., an inhabitant of this city, who has, by these presents, sold, ceded, and made over from now and forever, and promises warranty from all troubles, gifts, debts, mortgages, evictions, substitutions, or other hindrances whatsoever to William Simp-
90 son and John Watkins, esq'r's, herein present and accepting for themselves, their heirs or assigns, a tract of land of twenty thousand arpents of superficies, situated in the district of Baton Rouge, new settlement of Sta. Helena, adjoining, by the northern portion, to the lands occupied by Mr. Forbe and vacant lands, and by the southern portion, to the lands of Edward Ross, by the eastern portion with the river Amit, & to the rivulet of Ste. Rosalie, called Sandy Creek, and by the west to vacant lands, which tract of land belongs to the said vendor for having bought the same from His Catholic Majesty, as per the titles, which he has handed over to the purchasors, for them, the said Simpson and Watkins, (les dits sieurs,) to have, and to hold, and to dispose of the said land as of a thing to them belonging, from this day for-
91 ever, the said sale being made for and in consideration of the price and the sum of twenty thousand dollars, which (les dits sieurs) the said Simpson and Watkins, purchasors, have, at this very time, completed in coined dollars, of the whole of which, the said vendor, who has received them, gives acquittance & discharge to the said purchasors, making over unto them all rights of property and other rights which he has and may have to the said land now sold, of which he has divested and dispossessed himself for the use and benefit of the said purchasors, their heirs, successors, and assigns, designing that they be put in possession by the person to whom it shall belong to do so, and constituting for that purpose the bearer of these presents, for it was thus done, ordained, understood between the parties, who,
92 for the execution of these presents & of the matters appertaining thereto, have elected their domicile each one at his residence aforesaid, at which place, notwithstanding, &c., &c., promi's it, &c., oblig., &c., &c., renouncing, &c., &c.

Done and passed in the office this eight' March, 1804, and the twenty-eighth years of the Independence of the United States of America, in presence of Antoine Fromentin and Felipe Guiranto, esq'r's, residents, and who, being present, here signed with the appearers.

In testimony whereof I, said notary, have affixed my signature and the seal of my office this day and year aforesaid.

CHARLES RAMOS.
W'M SIMPSON.
WALKINS.
GUIRANTO.
FROMENTIN.

NARCISSE BROUTIN,
Notary Public.

93 This present copy delivered in conformity with the original remaining in my hands.

New Orleans this 8th March, 1804, and the twenty-eighth year of the Independance of the United States of America.

[SEAL.] NARCISSE BROUTIN,
Notary Public.

STATE OF LOUISIANA,
Parish of Orleans:

On this 22nd day of July, A. D. 1871, before me personally came Mr. Thomas E. Evershed, who, being duly sworn doth depose and say that he is familiar with the Spanish and French languages, and competent to make true and correct translations from the same into English. That the foregoing eighteen pages and this page, contain a true, correct, and literal translation of the Spanish and French documents relating to the
94 Spanish grant of 20,000 arpents to Charles Ramos, as certified by the register of the consolidated land-office.

THOMAS E. EVERSHED.

Sworn to and subscribed before me this 22nd of July, 1871.
(Signed) K. LOEW, *U. S. C.*

(Endorsed:) No. 16. Heirs of James Innerarity *vs.* The United States. "C." Translation into English of two process verbals of Pintado accompanying his 2 plans of survey. Spanish grant of Morales to Charles Ramos of 20,000 arpents of 5th March, 1804. Sale from Ramos to W'm Simpson and John Watkins of $20,000 a'p'ts on March 8th, 1804. Oath of Thomas E. Evershed, translator, of 22nd July, 1871. Filed May 23rd, '72. J. A. Charbonnet, d'y cl'k.

95 *Document D.—Filed May 23d, 1872.*

State of Louisiana, second district court for the parish of Orleans.

Last will and testament of W'm Simpson, deceased.

Filed January 16th, 1813. "Ne varietur."
(Signed) MOREAU LISLET, *Judge.*

In the name God, Amen. I, William Simpson, of the city of New Orleans, merchant, a native of the town of Savannah, in the State of Georgia, do hereby make this my last will and testament in manner following, viz:

1stly. I declare that I am lawfully married to Melaine Bringier, youngest daughter of Marino Bringier, esquire, planter, of the county of Accadia, and parish of St. James, by whom I acknowledge having received as a marriage-portion the sum of four thousand "dollars,"
96 in Louisiana Bank, State; also, Mr. Marino Bringier's obligation in my favor, dated New Orleans, the twelfth day of December, one thousand eight and eleven, for the sum of eight thousand dollars, payable the (1st) first day of January, one thousand eight hundred and twelve, the said obligation being regularly executed and registered in the office of Narcissus Broutin, esquire, notary public. Copy of which is in my possession, and making, together with the four thousand dollars above-mentioned the total sum of twelve thousand dollars,

which is all I acknowledge having received as yet from the said Marino Bringier on account of my wife's marriage portion.

2dly. I do hereby most solemnly declare that, with the exception of my wardrobe and a few articles of small value, all my property con-
97 sists in the shares I hold in the mercantile houses of John Forbes & Co., in London and the different branches of the said firm in the provinces of West Florida.

I also declare that I am connected in like manner with said firm in all and every description of property they possess, or may possess, in London and West Florida, such as lands, houses, town-lots, slaves, merchandise, and finally, of every other kind of property whatsoever, movable or immovable. And I do moreover declare that the said firm of John Forbes & Co. have *ne* interest, as well in my mercantile concerns in this city, as in every other part and description of property whatsoever, by me and in my name held, according to the regulations and understanding known to my copartners, John Forbes & Co., and James Innerarity, the former now of Nassau, New Providence, the latter
98 of the town of Mobile, West Florida, whose decisions on this point must be an absolute rule by which my shares in the above-mentioned concerns shall be ascertained.

3rdly. I give, devise, and bequeath unto my beloved wife Melanie Bringier Simpson and her heirs, all the estate and property, of whatever nature or description, of which I may be possessed at the time of my death, with the exception of a few trifling legacies hereafter mentioned.

4th. To my nephew, William Simpson Campbell, son of Marsden Campbell, esquire, and my sister, Francis Mathilda Simpson, his wife, all of the town of Wilmington, in the State of North Carolina, I will and bequeath my gold watch, with gold chain and trinkets, also my case of pistols; and to my nephew, James Campbell, son of the
99 said Marsden and Francis Matilda, I leave my fowling-piece, case, and implements.

If *I* at the time of my decease my estate should prove solvent, I desire and will that the following sums may be appropriated as hereafter directed:

To my beloved and most respected mother, Anna Jean Simpson, of the town of Wilmington, North Carolina, the small sum of one hundred dollars for the purpose of buying a mourning-ring, or any other token of remembrance she may think proper.

To each of my sisters, viz: To Anna Maria Simpson, Francis Matilda Campbell, and Jean Simpson, I bequeath a like sum of one hundred dollars each, for the purpose above stated; and to my brother-in-law Marsden Campbell, fifty dollars.

It is likewise my will to leave to each of my executors, who will
100 be thereafter named, the sum of fifty dollars each, and also fifty dollars to my brother-in-law, Daraton M. Bringier, to purchase what they think fit as a token of my friendship and remembrance.

Lastly. I do hereby nominate and appoint my wife, Melanie Bringier Simpson, executrix, and my worthy friends Doctor Robert Dow, of this city, and the above-mentioned John Loubes and James Innerarity, my copartners, and also John Innerarity, of Pensacola, merchant, jointly, or either of them separately, with her, my said wife, to be executors to this my last will and testament, and detainers of my estate. And I do hereby authorize them to take inventories, and to do and perform extrajudicially all acts, matters, and things, as executrix and executors of this my last will and testament. And I do hereby revoke all former

wills or testamentary dispositions heretofore by me made other
101 than this, to which I have subscribed my name and affixed my seal, in the city of New Orleans, this ninth day of July, one thousand eight hundred and twelve.

Ne varietur. (Signed) WILLIAM SIMPSON.
(") MOREAU LISLET, *Judge.*

A true copy.

W. G. BOYLAN, *D'y Clerk.*

Document "E."

Filed May 23d, 1872.
(Signed) J. A. CHARBONNET, *D'y Clerk.*

State of Louisiana, second district court for the parish of Orleans.

Process-verbal of opening and proof of last will of William Simpson, deceased.

102 Know all men by these presents that, on the sixteenth day of January, in the year of our Lord one thousand eight hundred and thirteen, and the thirty-seventh of the American Independence, in conformity of my order bearing the same date as above, personally appeared before me, Louis Moreau Lislet, judge of the court of probates in and for the parish of New Orleans, Pierre François Dubourg & Abner Duncan, both residents of this city of New Orleans, who, being duly sworn agreeably to law, declare and say that a packet folded up as a letter, sealed with red wax, which I presented to them, and bearing the following subscription:

"This covers my last will and testament, made and executed by myself, and in my own handwriting, in the city of New Orleans, this ninth day of July, 1812," signed "William Simpson; witness John
103 Lynd, not. pub.;" and above

"Opened by me, New Orleans, Dec'r 14th, 1812, and put under a new cover sealed, signed William Simpson," is the proper handwriting of him, the said William Simpson.

(Signed) A. DUNCAN.
(") P. F. DUBOURG.

Sworn to and subscribed before me.
New Orleans, January 16, 1813.
(Signed) L. MOREAU LISLET, *Judge.*

Whereupon I, the said judge, caused the said packet to be broke' open, in which was found three and a quarter writing pages, signed William Simpson, and bearing date "in the city of New Orleans, this ninth day of July, one thousand eight hundred and twelve," and after having caused the same instrument of writing to be read in presence of the above-named witnesses, who did further recognized
104 the same to be totally written by the late W'm Simpson.

I do hereby declare that the said instrument is duly proved according to law of this State, as being the last will and testament "in scriptus" of the late William Simpson, and order the said last will to

be deposited and recorded in the register' office of this court, that copies thereof may be to all persons it may concern.

(Signed) A. DUNCAN.
(Signed) L. MOREAU LISLET, *Judge.*
(") P. F. DUBOURG.

A true copy.
[SEAL.] W. G. BOYLAN, *D'y Clerk.*

Document "F."—Filed May 23d, 1872.

Par devant nous, Narcisse Broutin, notaire public des Etats-
105 Unis d'Amérique en la ville de la Nouvelle-Orléans, et des temoins ci-après nommés,

Fut présent le sieur Charles Ramos, habitant de cette ville, lequel a par ces présentes vendu, cédé et transporté dès maintenant et à toujours, et promet garantir de tous troubles, dons, dettes, hypothèques, évictions, substitutions, ou autres empêchements quelconques, au sieur Gillaume Simpson et Jean Watkins, à ce presents et acceptant pour eux, leurs hoires, successeurs ou ayant-cause, une terre de vingt mille arpents de superficie situé' dans le district de Baton Rouge, nouvel établis'ement de Ste. Claire, attenant par la partie septentrional' aux terres occupé' par Mr. Forbes et vacantes, et par la partie meridional' aux terres de Edward Ross, et par la partie oriental', avec la rivière
106 Amit et au ruisseau de Ste. Rosalie, nommé Sandy Creek, et par l'occidental' aux terres vacantes; laquelle terre appartient au dit vendeur pour l'avoir acheté de S. M. C. suivant les titres qu'il a remis aux acquéreurs; pour par les dits sieurs jouir et disposer de ladite terre comme de chose à eux appartenante. à commencer leurs joui' sances dès ce jour, ladite vente faite pour et moyennant le prix et somme de vingt mille piastres gourdes, que lesdits sieurs acquéreurs on' tout présentement compté en espèces de gourdes, dont du tout ledit vendeur qui les a reçu tient quitte et décharge les sieurs acquéreurs, leurs transportant tous droits de propriété et autres qu'il a et peut avoir sur laditte terre présentement vendu', dont il s'est denus et desaisi au profit des sieurs acquéreurs, leurs hoirs, successeurs et ayant-causes, voulant qu'*il* soit saisi par et ainsi qu'*il* appartiendra, constituant pour
107 cette fin le porteur des présentes. Car ainsi a été fait, voulu et consenti entre les parties lesquelles pour l'exécution des présentes et de leur dépendances, ont élu leur domicile chacun en leur demeure susditte, au quel lieu, nonobstant, &c., promettant, &c., obligeant, &c., renonçant, &c.

Fait et passé en l'étude ce huit mars mil huit cent quatre et la vingt huitièmme année de l'Indépendance des Etats-Unis de l'Amérique, en presence des sieurs Antoine Fromentin et Felipe Guinault, temoins habitants et présants, qui ont signé avec les comparant'.

En foi de quoi nous, dit notaire, avons opposé notre seing et le sceau de notre office ce jour et an que dessus, et avons expédié les présentes par brevets.

(Orig'l s'gd) CARLOS RAMOS.
JOHN WATKINS.
W'M SIMPSON.
GUINAULT.
FROMENTIN.

108 [SEAL.] NARCISSUS BROUTIN,
Notary Public.

STATE OF LOUISIANA, *Parish of Orleans.*

I, Andrew Hero, jr., a notary public, and the custodian of notarial records in and for this parish and city of New Orleans, duly commissioned & qualified, do certify the above and foregoing as a true and correct copy of the original act extant in the notarial records of Narcissus Broutin, late notary in this city, and whose notarial records I hold as custodian thereof.

Attest my hand and seal, as commissioner aforesaid, at New Orleans, this 16th January, A. D. 1872.

ANDREW HERO,
Custodian of Notarial Records.

[5c. U. S. I. R. S. affixed & cancelled.]

109 *Document G.—Filed May 23d, 1872.*

HEIRS OF JAMES INNERARITY & AL.,
vs.
THE UNITED STATES.
} No. 16 of the new land-docket.

HENRY GASCON, witness for complainants in the above-entitled cause, being duly sworn, deposes, with reference to the maps or plans now before him marked A, certified by E. W. Foster, surveyor-general of Louisiana, on the 26th July, 1871, representing two tracts comprising 20,000 arpents of land claimed to be derived from the Spanish government by Carlos Ramos, (vol. 3, Amer. State Papers, page 54, under No. 15, Duff Green's edition,) as follows:

That he is the chief clerk of the surveyor-general's office of
110 Louisiana, and has been for some time; that for many years he was employed as a clerk in said office; that he is perfectly familiar with its records, maps, &c., and the manner of adjusting, surveying, and platting private land-claims in Louisiana; that the following table or exhibit is a true and correct copy of the origin of all the private land-claim or portions of land-claims embraced within the two plans aforementioned as comprising claim of Ramos; that is to say:

1st. Having immediate reference to the plan of 7,892 arpens—that section 48, T. 4 S., R. 2 E., Greensburg district, in the name of Philip Lewis; section No. 49, in same township; and section No. 57, in T. 5 S., R. 2 E., in name of Joshua Wining; section 52, in T. 4 S., R. 2 E., and section 58, T. 5 S., R. 2 E., in name of Tho's Young; & section 65, T. 5 S., R. 2 E., in name of John Forbes, have all been surveyed
111 and located as donations for 640 acres each, and confirmed by 3rd section of act of Congress of March 3rd, 1819. (U. S. Statutes at Large, vol. 3, page 530.)

That section 51, in T. 4 S., R. 2 E., and section No. 59, in T. 5 S., R. 2 E., in name of Jacob Carpenter; and section 60, T. 5 S., R. 2 E., in favor of Leonard Forbes; and section 61, T. 5 S., R. 2 E., in name of Jepthta Douglass, have all be*ing* surveyed and located as donations for 640 acres each, and confirmed by 3d section of act of May 8th, 1822. (U. S. Statutes at Large, vol. 3, page 707.)

2d. And having immediate reference to the larger plan, 12,408 arpents:

That section 41, T. 5 S., R. 2 E., has been surveyed and located as a donation of 640 acres, under the act of August 6th, 1846, in favor of Amos Thames.

That section 42, T. 5 S., R. 2 E., has been surveyed and located

112 as a donation under the act of March 3d, 1819, in favor of Henry Collins. This title was based upon a Spanish plat and certificate without date, for 425 arpents, surveyed by Spain, in 1807, with settlement and cultivation from 1803 to 1814, as appears by the report on the claims contained in the 3rd vol. of the Am. State Papers, Public Land, Green's edition, p. 49.

That the claim was not valid as a Spanish title, but was confirmed as a donation by the act stated, on account of settlement, prior to April 15, 1813. (3rd volume Statutes at Large, p. 529, 2d sec. of act of March 3d, 1819.)

That section 48, T. 5 S., R. 2 E., has been surveyed and located as a donation for 640 acres under the act of March 3d, 1819, in favor of Elizabeth Collins.

113 That section 47, T. 5 S., R. 2 E., has been surveyed and located as a donation for 640 acres under the act of 4th of May, 1826, in favor of Fielding W. Collins.

That section 49, T. 5 S., R. 2 E., has been surveyed and located as a donation for 640 acres, under the act of March 3d, 1819, in favor of John Sims.

That section 53, T. 5 S., R. 2 E., has been surveyed and located as a donation for 640 acres, under the act of 8th May, 1822, in favor of Martin Woolet.

That section 54, T. 5 S., R. 2 E., has been surveyed and located as a donation for 640 acres, under the act of 8th May, 1822, in favor of John Montgomery.

That section 55, T. 5 S., R. 2 E., and sect. 62, T. 6 S., R. 2 E., have been surveyed and located as a donation for 640 acres, under the act of March 3rd, 1819, in favor of James Jackson.

114 That section 63, T. 6 S., R. 2 E., has been surveyed and located as a donation for 640 acres, under purchase, by act of March 3d, 1819, in favor of Jacob Chambers.

That section 66, T. 6 S., R. 2 E., has been surveyed and located as a donation for 640 acres, under settlement, under the act of 8th May, 1822, in favor of Jacob Chambers.

That section 67, T. 6 S., R. 2 E., has been located and surveyed as a donation for 640 acres, under the act of 8th May, 1822, in favor of William Long.

That section 68, T. 6 S., R. 2 E., has been surveyed and located as a donation for 640 acres, under the act of March 3rd, 1819, in favor of John Fridges.

H. GASCON,
Chief Clerk in Surveyor-General's Office.

Sworn to and subscribed before me this 4th day of March, 1872.
(Signed) J. A. CHARBONNET, *D'y Clerk.*

115 *Document H.—Filed May 23d, 1872.*

HEIRS OF JAMES INNERARITY
vs.
THE UNITED STATES. } No. 16 new land-docket.

HENRY GASCON, witness for the complainants in the above-entitled cause, being duly sworn, makes the following statements, supplementary to & in explanation of his affidavit made in this cause, on the 4th day of March, 1872:

That section 48, in township 4 south, of range 2 east, was confirmed on account of settlements, prior to April 15th, 1813, the year of the 1st settlement being 1811.

That the year of settlements for sect. 49, same township, and of sect. 57, T. 5 S., R. 2 E., was 1812.

116 That the year of settlement for sect. 52, same t'p, & sec. 58, T. 5 S., R. 2 E., was 1805.

That the year of settlement for section 60, T. 5 S., R. 2 E., was 1811.

That the year of settlement for section 61, same township, was 1811.

That the year of settlement for section 65, same township, is September, 1802.

That the year of settlement for section 41, same township, was 1809.

That the year of settlement for section 42, same township, was 1803 to 1814.

That the year of settlement for section 47, same township, was 1803.

That the year of settlement for section 48, same township, was 1806.

That the year of settlement for section 49, same township, was Aug., 1802.

117 That the year of settlement for section 53, same township, was 1804.

That the year of settlement for section 54, same township, was 1810.

That the year of settlement for section 55, T. 5 S., R. 2 E., and sec. 62, T. 6 S., R. 2 E., was 1812.

That the year of settlement for section 63, in township 6 S., R. 2 E., was February, 1813.

That the year of settlement for section 66, same township, was 1812.

That the year of settlement for sec. 67, same township, was Dec., 1812, and that the year of settlement for section 68, same township, was 1805.

That he makes this affidavit from the facts as shown & established by the records of the surveyor-general's office for the State of Lou-

118 isiana, with which records he is familiar. That such records from which he speaks consist, among other authentic documents, of the volumes of the American State Papers relating to public lands, certificates of confirmation, or copies thereof on file, orders of survey, and the approved township maps containing the lands embraced within the two surveys of the grants to Ramos.

That the sections to which he has referred comprise all the land embraced in said two surveys which the United States have granted as donations, but do not embrace any lands which they have alienated under the general laws relating to sales, pre-emptions, homesteads, or other modes of disposition of a similar nature.

(Signed) H. GASCON,
Ch'f Clerk U. S. Surveyor-General.

Sworn to and subscribed before me March 14th, 1872.

(Signed) J. A. CHARBONNET, *D'y Clk.*

119 *Document "I."—Filed May 23d*, 1872.

HEIRS OF JAMES INNERARITY
vs.
UNITED STATES. } No. 16 new land-docket.

EDMUND WOOLRIDGE, being duly sworn for complainant, deposes and says: I am a near relative of Dr. John Watkins, deceased. My father was cotemporaneous with him in this city up to the time of his

death, so that I am traditionally familiar with his history. He had but one child, John Watkins, now deceased, whom I knew as far back as forty years. With his family I am personally intimately acquainted.

From tradition I know that Dr. John Watkins died in 1812. My
120 father came to this country with him. Of my knowledge, John Watkins, his son, died about 1864. I was present, but cannot be certain as to date. I knew his mother, the wife of Dr. John Watkins, intimately. She died in this city a few years since. John Watkins left only four children, all of whom I know intimately, viz, Elise Watkins, John H. Watkins, Lucie Watkins, (wife of E. R. Hogan,) and Henry Watkins, all of whom are of age, and reside in the city of New Orleans.

(Signed) E. WOOLRIDGE.

Sworn to and subscribed before me March 12, 1872.

(Signed) J. A. CHARBONNET, *D'y Clerk.*

HEIRS OF JAMES INNERARITY
vs.
THE UNITED STATES. } No. 16 new land-docket.

121 EDWARD R. HOGAN, being duly sworn for complainant, deposes and says:

That John Watkins, who died in this city in the year 1812, left but one child, viz, John Watkins, j'r, issue of his marriage with the late Eulalie Trudeau. That said John Watkins married Elise Dueras, and both are now dead, and that the issue of said marriage was four children, viz, Elise Watkins, John H. Watkins, Lucie Watkins, (wife of affiant,) and Henry Watkins, all of whom are now of age.

(Signed) E. R. HOGAN.

Sworn to and subscribed before me March 12, 1872.

(Signed) J. A. CHARBONNET,
D'y Clerk.

Document "J."—Filed May 23d, 1872.

122 On this sixth day of November, in the year of our Lord one thousand eight hundred and six, and in the thirty-first of American Independence, before me, Peter Pedesclaux, notary public in and for the city of New Orleans, capital of the territory of Orleans, personally came and appeared John Simpson, of Panzacola, merchant, who required of me, the notary, to file in my minutes the annexed deeds:

Be it known to all whom it may concern that, whereas I, John Lynd, of New Orleans, notary public, being indebted to Messrs. John Forbes & Co., of West Florida, merchants, in the sum of four thousand two hundred and thirty-three twenty-five cents, as appears by account settled with them in the thirt*ieth*-first, for which they hold my notes of hand of equal dates with these presents, at eight, sixteen,
123 and twenty-four months, am desirous to evince my desire of satisfying them for the same, I do hereby convey to them as a further security for the *p*aid sum of four thousand two hundred & thirty-three dollars twenty-five cents, all my right and title to certain grants of land purchased for our joint account, although in my name, from the Spanish government, but which grants are not yet completed, but are numbered from one to eleven, containing in the whole thirty-one thou-

sand nine hundred and twenty-five acres, situated in the district of Baton Rouge, as appears by the original papers, which are to be delivered to said John Forbes & Co. when finished. And whereas it is not convenient for me to give or for them to receive at present time a formal bill of sale of said lands, for divers reasons to us known, it is mutually agreed by us that the present writing shall serve all the
124 purpose of a public document and have the same effect until such time as the conditions thereof shall be fulfilled.

The conditions of this agreement are, that if the said John Lynd shall well and truly pay or cause to be paid the above three notes of hand at maturity, or otherwise satisfy the said John Forbes & Co. for the same, and at the time of the last payment convey by a public instrument of writing to the said John Forbes & Co., one moiety of the said grants of land containing, as aforesaid, thirty-one thousand nine hundred and twenty-five acres of land, then the present writing shall be void and of no effect; otherwise shall continue in full force. And whereas William Simpson is in possession of titles for ten thousand acres of lands, being the moiety of a survey made of twenty thousand acres of land in the name of
125 Carlos Ramos, the expenses of which are included in the above settlement of accounts, it is also understood, by these present instrument' of writing, that they, the said John Forbes & Co., shall immediately, on the fulfillment of the said agreement on the part of Jno. Lynd, made out and deliver to him a bill of sale of one-half of the said ten thousand acres, or, if they should be sold before that period, account to him for one-half of the net proceeds.

And whereas William Simpson, one of the partners of the said house of John Forbes & Co., holds a bill of sale of John Lynd's right and title to an unfinished grant of land, containing forty thousand acres, on the Pascagoula River, the expenses incurred of which are also included in the above settlement of accounts, it is also understood that, on the fulfilment of the above agreement & payment of his share of the
126 further expenses that may be incurred in completing the survey & titles for the same, should the said survey or titles ever be completed, the said John Lynd shall be entitled to call upon said William Simpson to make over one-half of said claims.

In witness whereof the contracting parties have hereunto interchangeably set their names, and affixed their seals, in Pensacola, this thirtieth day of April, one thousand eight hundred and six.

(Signed) JOHN FORBES & CO. [SEAL.]
(") JOHN LYND. [SEAL.]

Signed and sealed in presence of—
(Signed) T. B. MITCHELL.
(") JOHN INNERARITY.
(") R. P. JOHNSON.

And I, the said notary, have granted the request of said appearer, filed on my minutes the said deed, and have signed with the said
127 appearer and the witnesses, John B. Ramirez & Joaq'n Lozano.

W'M SIMPSON.
J. B. RAMIREZ.
JOAQUIN LOZANO.
PIERRE PEDESCLAUX, *N'ry.*

I do hereby certify this to be a true copy-record of the original recorded in my office.

In witness whereof I have hereunto set my hand and seal this third day of April, one thousand eight hundred and twenty-one.

(Signed) PH. PEDESCLAUX,
Not. Pub.

Document K.—Filed May 23rd, 1872.

MOBILE, *4th Nov'r*, 1813.

JOHN LYND, Esq.:

DEAR SIR: My young friend & assistant, Mr. Joseph M. Fernandez, will hand you this, on his way to Baton Rouge, w'ither he goes to present the land-claims to the house of the commissioner. Among other documents he is furnished with a certified copy of the title issued
128 by the Spanish government to Charles Ramos for 20,000 arpents, which was bought by Simpson & Watkins, which I have desired him to show you. It appears from the agreement between yourself and John Forbes & Co., filed in Pedesclaux' office, the 7th Nov., 1806, that you *was* to be entitled to one-half of Simpson's half, deducting the Widow Ramos' reserve of one thousand acres of the whole, say to four thousand seven hundred and fifty acres, of which, I presume, Mrs. Simpson has passed you the bill of sale.

As I am under the impression, however, that neither yourself nor Watkins, executor, have a certify copy of the title to produce to the commissioner of land-claims, I have desired Fernandez to show this one to yourself, and Mr. Chew, Relf, or whoever may have the management of the late doctor's estate, &, if required, to allow
129 notarial copies to be taken. If your conveyances should otherwise be incomplete, he can, if you wish't it, present' for the half of the whole in the name of Simpson's estate, and on the titles being confirmed by the U. S. Government we can arrange that matter between us; but for this you will have to give him a proper authority. You will also observe in this case that, should the Government reject these claims generally, but give to each claimant a certain fixed portion, and it should amount to less than the share claimed for Simpson's estate, I should retain the whole of such portions; but not if they should allow a pro rata quantity on the whole amount claimed, say 20, 30, 40, or 50 acres in a hundred. I mention this because some people suppose that the Gov. will reject all titles issued posterior to their occupation
130 of New Orleans, altho' I am not myself of that opinion.

After what passed between us personally at New Orleans, on the subject of your debt to Simpson's estate, I fear any further appeal to your better sentiments in this manner will be equally useless as my endeavors then were.

Yourself and Daniel Clark forced me into a disagreeable legal contest, which it would afford me pleasure to learn that yourself & Mr. Relf could find the means of terminating.

I remain still, with sentiments of friendship, dear sir, your very obed't,

JAMES INNERARITY.

(Endorsed on back:) John Lynd, esq., New Orleans. Document
131 "K." Filed May 23rd, 1872.

The document K referred to is an exact copy of the original document "K," preceeding letter from John Innerarity to John Lynd, of Nov. 14th, 1813.

Consent to publication of testimony.—Filed May 23rd, 1872.

HEIRS OF INNERARITY
vs.
UNITED STATES. } U. S. D. C. No. 16. Land-docket.

Testimony published by consent. Formal order for publication waived.
(Signed) J. W. GURLEY,
Ass't U. S. Attorney.
(") R. H. & J. L. BRADFORD,
Att'ys for Complainant.

132 *Order: Notices cause fixed.—From the minutes of May* 24,'72.

HEIRS J. INNERARITY & AL.
vs.
THE UNITED STATES. } No. 16.

On motion of the complainants, through their counsel, Messrs. R. H. and J. L. Bradford, this cause is assigned for trial, on Wednesday, May 29th, 1872.

Motion to suppress testimony.—Filed May 24th, 1872.

HEIRS OF JAMES INNERARITY
vs.
THE UNITED STATES. } No. 16. Land-docket.

U. S. district court.

Now comes defendant , and move to suppress so much of the
133 evidence offered by plaintiffs, and contained in document marked B, as purports to be a copy of a Spanish grant to Charles Ramos, dated 5th March, 1804, by Morales, of 20,000 arpents of lands and plats thereof, on the grounds, 1st, that the original grant & plats should have been produced, and until their absence is legally accounted for, copies cannot be substituted.

Plaintiffs have neither alleged the loss or destruction of the originals, nor attempted to account for their non-production.

Order thereon.

Let this motion be argued on the 29th ins't at 11 a. m.
May 24th, 1872.
(Signed) E. H. DURELL, *Judge.*

134 *Submission of cause.—From the minutes of May 29th*, 1872.

HEIRS OF J. INNERARITY
vs.
UNITED STATES. } No. 16.

This cause came up for trial on the merits and the motion to suppress testimony—R. H. & J. L. Bradfor', for plaintiffs; U. S. Attorney Beckwith, for defendant—and, after hearing the pleadings, evidence, and argument, the court took time to advise.

Reasons for overruling motion to suppress.—Filed June 8th, 1872.

HEIRS OF JAMES INNERARITY
vs.
THE UNITED STATES.
} No. 16. New land-docket.

135 This cause coming on to be heard upon the evidence on file and of record, and being submitted, it is first necessary, before disposing of the same upon the merits, to take notice of the motion to suppress a part of the evidence of the complainants. This evidence is objected to on the grounds that it is secondary and not admissible without proof of the loss of the primary or better evidence.

It is certified as true copies from the records of the commissioner before whom the claim was first presented, by the register of the U. S. consolidated land-office in this city, who is clearly the legal custodian of such records & authorized to certify copies.

The commissioner, Charles O. Cosby, was appointed under the act of 25th April, 1812, (2nd Stat's, 713,) was required to keep a clerk who should be a translator of French and Spanish, and both
136 were sworn to do their duties.

Among them was that of faithfully recording all grants, orders, plats, &c., &c., presented to them; & sec. 4 of the act denounces against documents not presented to and inspected & recorded by the commissioner, the penalty of perpetual exclusion as evidence in the courts of the United States.

The commissioner, by sec. 5, was armed with such powers & charged with such duties, respecting the examination and authenticity of titles & claims to be brought before him, that his records deserve the respect confidence we shall see Congress has always accorded them.

It was upon abstracts of these records laid by the commissioner before the Secretary of the Treasury and by him laid before Congress, that the United States has confirmed such large numbers of the claims
137 presented before the commissioner. The act of March 3rd, 1819, (3rd Stat's, 528,) confirms nearly all these claims, & only upon the abstracts of his records furnished by the commissioner, & it is upon these records and the evidence of title, &c., offered by them that the land-office's, who succeeded Cosby, were required, by sec. 12 of the same act, to issue certificates which were, after survey, the basis of patent.

The objections of the defendants seems to be predicated upon the hypothesis that the documents offered were private writings and not public records. The distinction, as drawn by 1st Greenleaf, sec's 470, 483, & 484 is here manifest. The grant to Ramos and the plats of survey were not private acts, but belonged to the public archives and records of the province where they were recorded in different offices and issued with tedious formalities. Under the act of 26th May,
138 1824, (4th Stat's, 52,) applied to Louisiana, by the act of 17th of June, 1844, (5th Stat's, 676,) and particularly by sec. 4, the records of the boards of commissioners were made evidence in suits under the act, and it was made the duty of custodians to furnish copies. Though this act has expired, yet the more liberal act of 22nd June, 1860, is even more express in favoring this kind of evidence. The 7th sec. leaves no doubt that such records as Cosby's should be admissible on the trial of suits under the act, liable, of course, to such objections as the original would be open to. The reason and justice of this are manifest, and are in keeping with the expansive equity which prompted Congress, after more than half a century of hostility to these old titles, to open the

door for their re-examination and ultimate recognition. When
139 the country was young, and the grantees living, in possession of their evidences of title, and zealous to maintain their rights, the law had exacted, under harsh penalties, the imperative duty of submitting them to the security of sworn commissioners, translators, and experts, who must have been perfectly acquainted with the signature and handwriting of the Spanish and French officers engaged in the granting, sale, and surveys of lands. Hence the mere fact of compliance affords a presumption of the regularity and genuineness of the titles presented and now on record, unless some mark of suspicion be entered on the record by the commissioner. Such suspicion was not aroused in this case, and the instruments objected to are recorded without a single circumstance to induce the belief that the commissioner regarded them as aught but authentic and satisfactory. Cosby was very hostile
140 to these large sales of Morales', and doubtless would have missed no occasion to enter any objection to this claim derived from defects in the evidence of title presented to him.

In view of all this, and after a long period of unfriendliness on the part of the United States, which may itself have lessened the value of old title-papers, and after the death of the original claimants, the probable loss or destruction of title-papers, common to the accidents and misfortunes of life, it would be exceedingly inequitable for the United States now to deny the testimony of their own records, and refuse relief, unless the original titles could be promptly produced in each case.

It was obviously the intention of Congress to make the commissioner's records admissible for all they may be worth, and we think the
141 copies before the court objected to in the motion to suppress being properly certified by the proper officer, and coming from the usual depository of such records, the Federal Land-Office, must be allowed to stand.

It is therefore ordered that the defendant's motion to suppress so much of complainant's evidence in Document "B" as purports to be copies of the grant of 20,000 arpents, and the two plats of survey thereof, be overruled.

(Signed) E. H. D., *Judge.*

Order overruling motion to suppress.—From the minutes of June 8, 1872.

HEIRS OF INNERARITY } No. 16.
vs.
THE UNITED STATES. }

For reasons assigned in the written opinion of the court this
142 day delivered and on file,

It is ordered that the defendant's motion to suppress so much of complainant's evidence in Document "B" as purports to be copies of the grant of 20,000 arpents, and the two plats of survey thereof, be overruled.

Reasons for judgment.—Filed June 8th, 1872.

HEIRS OF JAMES INNERARITY } No. 16. New land-docket.
vs.
THE UNITED STATES. }

District court of the U. S., district of Louisiana.

This is a suit instituted under the 11th section of the act of Congress approved June 2nd, 1860, as revised by the act of March 2d, 1867, for the confirmation of a Spanish grant of twenty thousand arpents
143 of land in the district of country situate between the Mississippi River on the west, the Pearl River on the East, the river Iberville, or Bayou Manchac and Amite River, on the south, and the thirty-first decree of north latitude on the north. (This country was held in possession by Spain long after the United States had, by the treaty of 1603 with France, acquired it, and she continued to make grants and sales of lands within the same. The case before the court is one of these sales.) The title relied upon is a complete grant to D'n Carlos Ramos, dated March 5th, 1804, for 20,000 arpents, given by Juan Ventura Morales, intendant, &c. The issuance of the grant in form was preceded by the usual survey of the Spanish authorities, the usual formalities of appraisements, and putting in possession of the grantee.

The survey was made in two separate tracts near each other in
144 the present parish of East Baton Rouge, the northerly tract containing 7,892 arpen's, and the southerly one, containing 12,108 arpen's, and both aggregating 20,000 arpents, equal to 17,000 acres, being on the west side of Amite River and Sandy Creek, & constituting at present parts of townships 4 & 5, and 6 south of range two east in the late Greensburg district of Louisiana. In all essential points the title is similar to that confirmed by the Supreme Court of the United States in the case of Lynd's heirs, (11th Wallace, 647.)

The evidence shows that Carlos Ramos sold this land on the 8th of March, 1804, to William Simpson and John Watkins, in equal undivided portions, but it is not satisfactorily proven that the widow Ramos subsequently, in ratifying this sale, reduced these portions by the
145 reservation to herself of one thousand arpen's, nor is it proven that William Simpson ever transferred any part of his interest to John Lynd, or others; the confirmation must therefore be in their favor for the whole.

It appears from the evidence also that William Simpson died in the year 1812, leaving by his will all his property, with the exception of some small legacies, to his then widow, Melanie Bringier Simpson, now the widow of James F. Wilson, dec'd.

It also appears that John Watkins died in 1812, leaving but one heir, of the same name, who also died in 1864, leaving his children as his only heirs. They are shown to be Eliza Watkins, John Watkins, Henry Watkins, and Lucie Watkins, the wife of E. R. Hogan.

It having been satisfactorily shown that all the lands within the
146 two surveys or tracts constituting the grant of 20,000 arpents to Ramos have been sold or otherwise disposed of by the United States, except the fractional section No. two, in township five south of range two east, containing 26.72 acres; so that no part thereof, with that exception, can now be recovered in kind by the claimants, they must receive a patent from the United States for the said 26.72 acres, and for the remainder they must receive certificates of location in commutathereof, as provided in the 6th section of the act of 22d June, 1860.

Judgment for plaintiffs.—From the minutes of June 8th, 1872.

HEIRS OF JAMES INNERARITY
vs.
THE UNITED STATES. } No. 16.

For reasons assigned in the written opinion of the court this
147 day delivered, and on file, it is ordered, adjudged, and decreed that the sale of intendant Morales to Don Carlos Ramos of March 5th, 1804, for 20,000 arpents of land, is a valid and just claim against the United States; and that the claimants, Melanie Bringier Simpson, widow of James F. Wilson, representing the interests of William Simpson, deceased, and Eliza Watkins, John Watkins, Henry Watkins, and Lucie Watkins, wife of E. R. Hogan, representing the interests of John Watkins, dec'd, are entitled to receive a patent from the United States for section two in township five, south range two east, in the late Greensburg district, Louisiana containing twenty-six and seventy-two hundredths of an acre; and for the residue of said land, being sixteen thousand seven hundred and three acres and twenty-eight hundredths of an acre, they are entitled to receive certificates of location in
148 80-acre warrants, to be located upon any of the public lands of the United States liable to private entry at the price of one dollar and twenty-five cents per acre, according to the 6th section of the act of Congress of June 2nd, 1860.

Judgment rendered June 8th, 1872.
Judgment signed June 13th, 1872.
(Signed) E. H. DURELL, *Judge.*

Motion for an appeal.—From the minutes of June 13th, 1872.

HEIRS OF INNERARITY & AL.
vs.
UNITED STATES. } No. 16.

On motion of J. R. Beckwith, U. S. attorney for the district of Louisiana, for and behalf of the United States, and on suggesting
149 to the court, that the defendant feels aggrieved by the final decree in this cause against the defendant, and believing that there is error in said decree as well as in its interlocutory decrees and orders herein;

It is ordered that the said defendant be, and he is hereby, allowed an appeal therefrom to the Supreme Court of the United States returnable at the next term thereof on the first Monday of December next, and that the same act as a supersedeas herein without bond or security.

(Here follows four maps marked page 149.)

150 District court of the United States for the district of Louisiana.

I certify that the preceding 148 pages, together with the two plans & two plats hereto attached, do contain & form a correct & complete transcript of the original record, & of all the proceedings had, documents filed, & evidence adduced in the trial of the case of the heirs of James Innerarity vs. The United States, No. 16 of the new land-docket.

In faith whereof I hereto set my hand & the seal of our court at New Orleans this 7th October, 1872.

[SEAL.]

CH'S CLAIBORNE, *Clk*,
per K. LOEW, *D'y Clk*.

(Indorsement on cover:) No. 247. The United States, appellants, vs. The Heirs of James Innerarity, dec'd. Louisiana D. C. U. S. Filed 12th November, 1872.

In the Supreme Court of the United States.

OCTOBER TERM, 1873.

THE UNITED STATES, *Appellants*,
vs.
THE HEIRS OF JAMES INNERARITY. } No. 247.

Appeal from the District Court of the United States for the District of Louisiana.

BRIEF FOR THE UNITED STATES.

In the Supreme Court of the United States.

OCTOBER TERM, 1873.

THE UNITED STATES, *Appellants*,
vs.
THE HEIRS OF JAMES INNERARITY. } No. 247.

Appeal from the District Court of the United States for the District of Louisiana.

BRIEF FOR THE UNITED STATES.

STATEMENT.

This is a petition under the act of 1860, ch. 188, (12 U. S. Stat., 85,) for the confirmation of an alleged title to lands in Louisiana under grant from Morales, the last Spanish intendant of West Florida, which was before this court for construction in the case of the United States *vs.* Lynde, 11 Wallace, 632.

By the act of 1867, ch. 184, said act was continued for a period of three years from and after the passage of the amendatory act, March 2, 1867. (14 U. S. Stat., 544.) By the act of 1872, ch. 421, it was revived and continued in force for three additional years. (17 ibid., 378.)

The original petition in this case, filed March 1, 1870, alleged that petitioners, as sole heirs and legal representatives of James Innerarity, were entitled to a judicial recognition of a Spanish patent of 20,000 arpents of

land in the present parish of East Baton Rouge, Louisiana, made to Charles Ramos, and that after the issuing of the patent the land became the property of the petitioners' ancestor.

To this petition there was a general demurrer filed.

Subsequently a supplemental petition was filed on the 27th of November, 1871, alleging that since the filing of their petition the petitioners had discovered by an inspection of the records of the commissioner, before whom the claim was formerly presented, "that the true right in law and equity to such lands and to such confirmation exists not in your petitioners, as they have heretofore averred, and had good, just, and sufficient reasons to believe, but in other persons hereinafter named, to wit," the heirs of John Watkins, William Simpson, John Lynde, and Charles Ramos.

To this supplemental petition, counsel for the United States demurred, for the reason that the time, within which, by the act of 1860 and the act of 1867, petitions for the confirmation of titles thereunder could be brought, had expired at the time of filing the amended petition, and that no new parties could be substituted thereafter; and that the heirs of James Innerarity, in and by their supplemental petition, judicially confessed and admitted that they had not, and had not at the time of filing their original petition, any right in law or equity to the lands claimed therein.

This demurrer was overruled, and ultimately a decree was made in favor of the representatives of John Watkins for a portion of the land.

ASSIGNMENT OF ERROR.

The demurrer to the supplemental petition ought to have been allowed, and the petition dismissed.

ARGUMENT.

Suits of this kind are matters of strict right, and entirely dependent upon the statutes authorizing them to be brought, and parties must bring themselves clearly within those acts.

Whether such an amendment as the one allowed in this case could be sustained in any action under any recognized system of pleading, may be doubtful; but, be this as it may, it is very apparent that it cannot be sustained under this statute. There is nothing in the petition to show any connection or joint interest between the heirs of Innerarity, who first filed the petition, and the other parties in whose behalf the supplemental petition was filed. And allowing an amendment at the time the supplemental petition was filed, bringing in new parties, was really extending, as to them, the time within which an action could be brought, beyond the period mentioned in the act of 1867, and ought not to have been allowed.

United States *vs.* Patterson, 15 How., 12.

As to the heirs of Innerarity, the supplemental petition admits that they had no title to the property, and the decree entered was only in favor of the heirs of Watkins.

Although the act has been revived, counsel deem it proper to raise this point.

C. H. HILL,
Assistant Attorney General.

IN THE

Supreme Court of the United States,

OCTOBER TERM, 1873.

THE UNITED STATES, APPELLANTS,
vs.
THE HEIRS OF JAS. INNERARITY, DECEASED, APPELLEES. } No. 247.

Appeal from the Dist. Court of the United States for the Dist. of Louisiana.

Brief for Appellees.

STATEMENT OF THE CASE.

This was a proceeding in equity, instituted against the United States in the District Court of the United States for the District of Louisiana, by the heirs of James Innerarity under the act of Congress of 22nd June, 1860, (Sec. 11, 12 Stats. at Large, p. 85, chapter 188,) as revived for three years by act of 2d March, 1867, (14 Stat., 544, chap. 184.) These acts provide for the adjustment of private land claims in Florida, Louisiana and Missouri, either by proceeding before Boards of Commissioners or by suit. This case, except some points of pleading and practice, is similar to that of the United States vs. Lynd, XI Wallace, 632; but the grant sued on originated more than *two* years before the grant to Lynd, which was sustained by that decision. The heirs of Innerarity, in their petition, prayed for the judicial recognition of the validity of a Spanish patent for 20,000 arpens of land (equal to 16,730 acres) in east Baton Rouge parish, Louisiana, between the Mississippi and Perdido rivers, granted to Charles Ramos by the Intendant General Morales, on 5th March, 1804—after the Louisiana treaty and before the final expulsion of the Spaniards from that region.

There was a decree against the United States. Under the peremptory reqirements of the act of 22nd June, 1860, sec. 11, the district attorney appealed to this court, where, under the same act, the case is now to be adjudged *de novo*.

By the 3d Article of the treaty of San Ildefonso, of the 1st October, 1800, Spain retroceded the province of Louisiana to France (cited 8, Stats. 202,) but never delivered possession. By the 1st Article of the treaty of Paris of 30 April, 1803, France ceded the province to the United States, (8 Stats., 202.) On the 1st October, 1803, before the United States had taken possession of any part of the province, Don Juan Bonaventura Morales, the Spanish intendant general of the provinces of Louisiana and Florida Occidental, on the petition of Don Carlos Ramos, addressed from New Orleans to Don Carlos de Grandpre, governor of the post of Baton Rouge, an order of survey, and of appraisement, in favor of the petitioner for 20.000 square arpens of land (recited printed record, pp. 18, 19, 20, 21.) The order was, as usual, communicated by the Governor of the post to Don Vincente Pintado, then a deputy surveyor of the province of Florida Occidental, who, on 12th December, 1803, executed a plat (No. 1703) and certificate of survey of 7892 arpens of the grant, and signed it with the appraisers. This part of the grant fronts on the west bank of Santa Rosalia or Sandy Creek, three miles above its junction with the Santa Helena or Amite river. The tract was appraised at 11 cents an arpent, (rec. 20). On the 16th Dec., 1803, he executed his plat (No. 1702) and certificate of survey of the rest of the grant, being 12,108 arpens, and signed it with the appraisers. This part of the grant fronts on the west bank of Sandy Creek and Amite river about a mile below the other part. The tract was appraised at ten cents an arpent, (record 18.22.) For these two plats see end of the record.

On the 20th of December, 1803, at New Orleans, after the grant to Don Carlos Ramos had thus been severed from the domain, the United States received the formal delivery of the province of Louisiana, (4 Opinions of Attorney General 643, 651.) On the 10th of January, 1804, at New Orleans, the intendant general decreed the registration by the Surveyor general, Don Carlos Trudeau, of the two plats and certificates, if the latter should find his deputy's operations correct. (record 19,20,21.) On the 15th February, 1804, they were registered accordingly, (record 19, 20. On the 21st February 1804, the intendant general issued an order to the royal treasurer, to close the sale to Ramos.

This was done, and on 1st March 1804, the price, according to the appraisements, was paid by Ramos into the royal coffers. (Record 21.) On 5th March, 1804, the intendant gen-

eral executed to Ramos a complete patent for the land, reciting the above preliminaries. (Record, 20.) The patent was then recorded by Carlos Ximenes, notary of the royal treasury, and again by the principal comptroller. (Record 22, 23.)

On the 8th March, 1804, in New Orleans, Carlos Ramos, by notarial act, sold the 20,000 arpens by undivided halves for $20,000 in specie, to William Simpson and Dr. John Watkins. (Record, 23, 27.) The complainants tried to prove, (record, 31, Document J, Document K, p. 33, and Document B, p. 11,) that the widow of Carlos Ramos retained an undivided interest of 1000 arpens in her husband's grant, thus reducing the undivided shares of Simpson and Watkins to 9,500 arpens each; and that Wm. Simpson's share of 9,500 arpens was afterwards equally divided between him and John Lynd, giving each of the latter two an undivided share of 4,750 arpens of the grant. But the Court held that the proof of the reservation to the widow Ramos and of the sale by William Simpson to John Lynd was insufficient and therefore decreed the entire grant to the heir of Simpson and the heirs of Watkins respectively.

On the 9th July. 1812, William Simpson made his will, devising all his property, save a few movables, to his wife, Melanie Bringier Simpson, now living. He died soon after and his will was probated in New Orleans, on the 16th January, 1813. (Record 24 to 27.)

In 1812 Dr. John Watkins also died. (Rec. 30, Doc. I.) He had but one child, John Watkins, who died about 1864, leaving but four children, Elise Watkins, John H. Watkins, Lucie Watkins, now wife of Edward R. Hogan, and Henry Watkins. Meantime, on the 25th April, 1812, an act of Congress was passed, (2 stats. 713, chap. 67,) enabling, for the first time, the claimants of land lying within the Louisiana purchase and between the Mississippi and Perdido rivers, to present their titles to commissioners for examination and report. Under the act of 18th of April, 1814, (3 Stats.,137, chap. 85) extending that act, James Innerarity, the ancestor of complainants, an executor of William Simpson's will, (record 25,) delivered by attorney to James O. Cosby, the commissioner for the district west of Pearl river, at Saint Helena, a notice of claim, with the Spanish surveys and titles, in favor of Don Carlos Ramos. This was on the 24th of July, 1814, (Document B, Record 11). Cosby numbered the claim 15 in his register C of claims, which in his opinion were *not valid, agreeable to the laws, usages or customs of the French, British or Spanish governments.* (Am. State papers, Public lands, III, 54, Green's edition). Afterwards, as required by the act of 25th of April, 1812, S. 7 (chap. 67) Cosby, in 1814 reported to the Commissioner of the general land office the abstracts from his records, which ab-

stracts are printed in the American State papers, as above referred to. On the 2d January, 1816, and again on the 5th February, 1818, these abstracts were communicated to the House of Representatives.—(Am. State p. Pub. Lands III, p. 6 and 274). The result was an act of Congress on 3rd March, 1819, (3 stats. 528, ch. 100,) disposing of the claims in the abstracts. The act recognized some claims, confirmed others and donated others. But neither that act nor any other, has ever specifically sanctioned or condemned the claim in controversy here.

However, after the act of 1819, the government proceeded to dispose of the land in Ramos' grant, as public.—(Record, 28, doc. G, 29. doc. H, and map marked "copy" "A" at end of record.) Afterwards Congress passed and extended various acts, enabling claimants under incomplete titles, to present their claims to the courts for confirmation. But it was not until the act of 22d June, 1860, (12 Stats., 85, C. 188,) that claimants under complete titles, like this, were allowed to sue the U. S. for recognition of their grants. The 12th sec. limited the act to *five* years, during nearly all of which time the State of Louisiana was so convulsed by civil war that but few suits were or could be instituted under the statute. It was therefore revived by act of 2d of March, 1867, (14 Stats. 544, chap. 184,) for "*three years from and after the passage of this act.*" However, the disorganized condition of the land offices in New Orleans, whence alone the evidence required by the statute could be had, caused more delay, so that it was not till 1st March, 1870, that the petition in this case was filed, (record 1.) James O. Cosby had reported the heirs of James Innerarity to be the claimants before him, (Am. State papers, III, 54 claim 15,) and as sec. 7 of the revived act of 22d June, 1860, made this statement *prima facie* evidence, his heirs, in their petition, alleged themselves to be the sole owners of the grant sued on. (Record 1.)

To this suit of the heirs of Innerarity the United States pleaded a peremptory exception—that the act of 2d March, 1867, "had expired by limitation before the plaintiffs filed their petition." Afterwards the government demurred to the petition, on the ground *that it did not state such a case as should entitle the petitioners to the relief prayed for.* (Record 4.) The exception and demurrer were overruled and the defendants ordered to answer. (Record 5.)

Afterwards, on the 27 November, 1871, after the expiration of the reviving statute of 2d March, 1867, the complainants having discovered that their ancestor, James Innerarity, had never owned nor claimed the grant, but had only appeared by attorney before Cosby, as executor of the estate of William

Simpson, one of the owners, presented their supplemental bill, disavowing title in themselves; alleging title in the heirs of Doctor John Watkins, the heir of William Simpson, the heirs of John Lynd, and the heirs of widow Ramos; and praying that the suit of the original complainants might be continued for the sole use of such heirs. The supplemental bill was filed by leave of the Court on the 4th December, 1871, subject to right to demur.—(Record 5.) Afterwards the defendants demurred to both bills of complainants, for that the reviving act expired on the *first* of March, 1869; that no new plaintiffs could be made or substituted; that the supplemental bill confessed the complainants to be, and to have been, without any right to the land claimed, and that the *original bill did not state such a case as should entitle the petitioners to the relief prayed for in it.*—(Record 7.)

This demurrer was, after argument, also overruled, and defendants were again ordered to answer (Record 8.) The answer was accordingly filed on 9th February, 1872.—(Record 8.) It denies the grant to Ramos, the mesne conveyances, the title of plaintiffs as heirs or vendees, the survey of the grant, and the sufficiency of the plat annexed to the petition. It excepts to the petition on the ground that it omits to specify how much of the grant remains public land, and how much has been sold by the United States or is incapable of survey. It alleges that the grant excepts the rights of third persons; that much of it is covered by adverse claims, and that the petition fails to show whether such claims emanated from the United States or from foreign governments. The answer ends by denying that those adverse claims are of federal origin.

On the trial of the merits the defence offered no evidence. Among that offered by complainants was an office copy of the grant, (Record 12, 18,) and of the two Spanish plats numbered 1702 and 1703. (See end of printed record, and p. 149 of original record.) The defendants, after the publication of the testimony, moved to suppress this copy of the grant and of the two plats, on the ground that the originals should have been offered or accounted for. After argument on this motion, and on the merits, the motion was overruled, (Record 36,) and afterwards judgment was rendered recognizing the grant as valid against the United States, and declaring that William Simpson's heir and the heirs of Doctor John Watkins are entitled to a patent for Section 2, in Township 5 South, of Range 2 East, in the late Greensburg land district, Louisiana, containing 26.72 acres, and to 80 acre certificates of location for 16,703.28 acres, being the rest of the grant.—(Record 38.) From this decree and from the interlocutory orders overruling the defendants' exception, demurrers, and motion to suppress testimony, defendants appealed to this

Court, (Record 38,) after Congress had, on 10th June 1872, passed an act (17 Stats., 378, Chap. 421) enlarging and extending for three years the act under which this suit had been brought.

THE QUESTIONS

involved are those arising on the defendants' exception, demurrers, answer, and motion to suppress testimony. They are these:

First. Is this suit barred by the expiration of the act of 2d March, 1867, before petition filed?

Second. Did the expiration of that act bar the subsequent supplemental petition?

Third. Do the petitions state a proper case for relief under the act?

Fourth. Do petitioners prove such a grant as the act contemplates, and prove their title under the grant and the other essential allegations of their petitions?

Fifth. Were the office copies of the Spanish grant and plats admissible without first accounting for their originals?

ARGUMENT ON THE ABOVE QUESTIONS:—

First. Is this suit barred by the expiration of the act of 2d March, 1867, before petition filed?

This question arises on the peremptory exception of defendants, that the act of 22d June, 1860, as extended by act of 2d March, 1867, "had expired by limitation before the plaintiffs filed their petition."—(Record, 4.) The act of the 2d of March, 1867, (14 Stats., 544, Chap. 184,) declares that the act of 22d June, 1860, is "hereby extended, and the same shall continue in force for a period of three years from and after the passage of this act." The three years embraced the first of March, 1870, when the petition was filed.—(Record, 1.) The petition was therefore not barred. The known rule is, that a statute for whose beginning no time is fixed, begins from date, (7 Wheaton, 211,) and it has been said that it begins from the first moment of the day of its date.—(9 Cranch, 104.) But this refinement of the rule has been declared unsound, (Matter of Ankrim, 3 McLean, 285,) and very properly, for a statute is a mere bill and not a law before the President signs it, and though it is possible that he may sign a bill, chronometer in hand, the first moment of the day of its date, it is not probable. The public acts which he signed on the 2d of March, are numerous. They occupy the 14th volume of the statutes from page 418 to page 563. He could only have signed one of these acts on the first moment of the day. Shall the rest, then, take effect before signature? If so, why sign them at all?

However, admitting that the act here began with the beginning of the 2d of March, 1867, its three years could not have expired before the expiration of the first of March, 1870, and meantime the petition had been filed. This was enough, for in the language of section 12 of the act of 22d June, 1860, (12 Stat., 85, Chap. 188,) as revived by the act of 1867, "all claims presented or sued upon, according to the provisions of this act, within the term of five years, may be prosecuted to final determination and decision, notwithstanding the said term of five years may have expired before such final determination and decision." State laws are generally rules of decision for federal courts sitting in the states, but not where, as here, the federal statute prescribes its own rule.—(Act 24 Sept., 1789, sec. 34, 1 Stat., 73, chap. 20.)

Second. Did the expiration of the act of 2d March, 1867, bar the subsequent supplemental petition?

This question, the only one raised in the brief of the Attorney General, arises on the 2d demurrer of plaintiffs. This was a demurrer to both petitions, (Record 7,) on the grounds that the acts of 1860 and 1867 "expired, by limitation, on the first of March, 1869," that no new plaintiffs could be made or substituted; that the supplemental bill confessed the complainants to be and to have been without any right to the land claimed, and that the original bill did not state such a case as should entitle the petitioners to the relief prayed for in it.

We have seen that the act of 2d March, 1867, did not expire before the petition was filed. The supplemental petition was filed, with leave, on the 4th of December, 1871, when, it is admitted the act had expired. But it does not follow that the petition was barred. A statute of limitation, like this, is the servant of justice, not its master. The statute is made for justice, not justice for the statute. "The object of the law is to secure the individual from the machinations of dishonesty, when attempted under the advantages attendant upon lapse of time, loss of papers and death of witnesses. But when cases present themselves in which no laches can be imputed to the plaintiffs, but great injustice would be done by applying to such cases the effect of the statute, the conclusion of reason and of the law is that such cases were not in the mind of the Legislature when enacting that law."—(8 Cranch, 834.) And the language of Judge McLean, (in 3 McLean, 480,) is strictly applicable here. "It is not pretended," said he, "that the defendant has a defence to the merits. He relies solely on the technical plea of the statute. Although this is a legal defence it is not a conscientious one, and is not favored in law." In this case, the plea of the statute by the United States would be particularly ungracious, for the supplemental petition was filed to correct an

error into which the petitioners were led by defendants' American State Papers.—(See volume 3 of Public Lands, p. 54, Register C, claim number 15, Green's edition.) The state papers are made evidence by statute.—(Act 2 March, 1831, 4 Stat., 471, chap. 65; Joint Resolution 6, of 10th July, 1832, sec. 1, 4 Stats., 606; Act of 3d March, 1837, sec. 1, 5 Stat., 171, 174, chap. 33.) They are as competent as the original papers of which they purport to be copies.—(Watkins vs. Holman, 16 Peters, 25; Bryant vs. Forsyth, 19 Howard, 334.) According to the state papers, this land was claimed by the "heirs of James Innerarity" in 1814. By section 7 of the act of 22d June, 1860, this fact must "be taken as true *prima facie*." Is it strange, therefore, that the heirs of James Innerarity should have deemed themselves the owners of this grant? After they filed their petition, they discovered amid the chaos of the register's office in New Orleans evidence that their ancestor claimed the land before the old commissioner, James O. Cosby, not in his own right, but as executor of the estate of William Simpson, deceased. The same evidence also induced them to believe that Simpson had owned but part of the grant, and that the rest had belonged to John Watkins, John Lynd, and the widow Ramos.—(Record 11, Document B.) Hence it was that the heirs of Innerarity filed their supplemental petition, praying that the suit might be continued in their names, for the use of the heir of Simpson, the heirs of Watkins, the heirs of Lynd, and the heirs of the widow Ramos. This was but enforcing the trust reposed in their ancestor, the executor of Simpson. For equity will hold an executor as trustee for those entitled to the surplus after payment of debts and legacies.—(2 Story's Equity Jurisp., § 1,208, and notes.) An executor is charged with the duty, as trustee, of suing, if necessary, to secure the interests of the *cestui que trust*, and is responsible for neglect.—(Ib., §1,275.) Moreover, equity will interfere to enforce powers after the trustee's death, if they be coupled with a trust.—(Ib., § 1,061, and notes.)

The heirs of Innerarity were proceeding according to the practice in chancery, (act 22d June, 1860, sec. 11,) and there it is a rule that he who seeks equity must do equity, (Francis' Maxims, 1,) and that he who commits iniquity shall not have equity.—(Ib., 2.) The error of the heirs in their first petition, was in the nature of mistake originating in surprise, and equity will always relieve against such mistakes.—(1 Story's Eq. Jurisp., § 118, 119, 120 and notes, and § 134, 137.) In filing the supplemental petition in behalf of the heir of an estate of which their ancestor had been executor, they but enforced the spirit of the law; for "the appointment of new trustees is an ordinary remedy, enforced by courts of equity in all cases where there is a failure of suitable trustees to perform

the trust, either from accident, or from the refusal of the old trustees to act, or from their original or supervenient incapacity to act, or from any other cause."—(2 Ib., § 1287, and see 1 Ib., § 169.) So, if an agent dies before the completion of his business in land or commerce, his heirs may complete it; (Story on Agency, § 494,) and Chancellor Kent says, that, by the civil law, if an agent enters on the execution of a trust and dies, his legal representatives may carry it out.—(Lectures, vol. 7, Lecture 41, part 5, section 4.)

Besides, the United States are concerned in the *confirmation*, and care not who presents the title for confirmation. Now, the confirmation was the work of the act of 1860, revived, and is not the act of the court.—(U. S. vs. Lynd, 11 Wallace, 632, 645, 646, 647.) The court does not so much confirm a grant as announce a precedent confirmation, and declare who are the present confirmees. The government had notice of the suit in time, and are not surprised, and cannot complain. They defend, if at all, against the title, not against the claimant. Their defence is the same now as it would have been had no supplemental bill been filed. That petition *continues* the original suit for the *use* of the true owners, (Record, 6,) and the United States may make the same defence against them which might have been made against the heirs of Innerarity under the first petition.—(2 Hennen's Louisiana Digest, 1124, No. 6, edition of 1861.) In Louisiana a plaintiff may assign his claim and agree that the suit shall continue in his name for the assignee's use, and no one can complain.—(Ib., 1137, No. 18; 1187, (d) No. 10.) And in this case the statutes under which suit was filed allowed the heirs of Innerarity, on suing upon their claim in time, to prosecute it after the expiration of the statute.—(Act 22d June, 1860, sec. 12.)

Substantial justice having been done between the parties in the district court, this court should not reverse the decree on merely technical grounds.—(Fisher vs. Reider, Hempstead's C. C. Report, 82.) The equitable rule that all parties in interest shall be brought before the court, was introduced for the purposes of justice, and is susceptible of considerable modification to promote those purposes.—(Mallow vs. Hinde, 12 Wheaton, 197.) Accordingly, the court will not regard the absence of parties whose interests are completely represented, as an obstacle to doing justice by a decree between the parties actually before it.—(Carson vs. Robinson, 2 Brightly's Digest, 102, No. 101.)

The supplemental petition was but an amendment of the original, and it is a rule that where necessary parties are omitted in a bill, or unnecessary parties inserted, the court, on application, will allow an amendment on such terms as the nature of the case may require.—(Story Eq. Pleading, § 885; and see

Ib., p. 736, *n.*) In Louisiana it is justly held that the allowance of amendments is more likely to do justice than its refusal, and is hence more favored.—(2 Hennen's Digest, 1182, No. 15, edition of 1861.) They are specially favored there when they cause no injury, and prevent multiplicity of suits, (Ib., No. 17,) and are only excluded where they *alter the substance of the demand.*—(Ib., 1182, No. 9; 1184, (C, 1,) No. 2.) "After issue joined," says the Code of Practice, "the plaintiff may, with the leave of the court, amend his original petition; provided the amendment does not alter the substance of his demand by making it different from the one originally brought."—(Louisiana Code of Practice, Morgan's edition, Art. 419.) In this case, the substance of the demand was, the judicial recognition, as against the government, of the grant to Ramos. The amendment did not alter this demand, nor alter the parties. The petitioners simply change the capacity in which they have sued, as good faith required. It was not essential that the true owners should make themselves parties.—See U. S. vs. Sutter, 21 Howard, 171. That was an appeal from a decree of the district court of the United States for the northern district of California, confirming a Mexican land grant, and the record showed that Sutter, the confirmee, had conveyed nearly all his estate in the grant. It was objected by the United States in the Supreme Court that the claim should have been preferred by Sutter's grantees. But the court, on the authority of the U. S. vs. Percheman, (7 Peters, 51,) and U. S. vs. Patterson, (15 Howard, 10,) overruled the objection, saying, "It is competent for persons interested in the claim to employ the name of the original claimant."

The demurrer to the supplemental petition is substantially a plea of the statute of limitations. Now, the reason of the statute does not apply here. The appellants, by their act of Congress of the 10th June, 1872, (17 Stat., 378, chap. 421,) reviving for three years and enlarging the act under which suit was brought, admit that such reason has ceased, and waive the bar of the statute. Public policy no longer requires that the supplemental petition should be held as barred, for in that case, the true owners would simply sue again in their own names. In view of this fact, and of the error in the state papers of the appellants which misled alike the heirs of Innerarity and the true owners, justice seems to dictate that this court should disregard the plea of the statute. Equity removes the bar of the statute of limitation when fraud enables the opposite party to set it up, *or when the bar would operate a manifest injustice.*—(2 Story's Equity, § 1521 and notes.) The act of 22d June, 1860, section 11, declares in such appeals as this, that "the same shall be adjudged *de novo* in the Supreme Court as in other cases of appeals thereto in chancery, and as equity, and justice, and the principles" of the statute may require. In accordance with this liberal spirit, the court, in the leading case of the U. S.

vs. Lynd, (11 Wallace, 632, 647,) said: "If it should appear that a claim was honest and meritorious, but defective in point of form or completeness, it might be the duty of the tribunals to sustain it as an equitable, if not a strictly legal title." Thus instructed, the court below sustained the grant to Ramos, and it is hoped that the master will not now find fault with the pupil for his docility.

The only error assigned by the Attorney General is the order of the court below overruling the demurrer now under consideration.—(See his brief, p. 3.) In his argument on this point he simply pleads the bar of the statute of the 2d March, 1867, against the amendment of the appellees, and relies on the United States vs. Patterson, 15 Howard, 12. That case arose under the act of 26th May, 1824, (4 Stat., 52, chap. 173,) to enable land claimants under imperfect titles in Arkansas Territory and Missouri to sue the United States for confirmation, as revived for five years and extended by act of 17th June, 1844.—(5 Stats., 676, chap. 95.) Patterson filed his petition in the district court of the United States, in New Orleans, on the 13th of April, 1846, claiming a fourth of two Spanish grants as vendee of the heirs of William Barr, a former co-proprietor. A decree of confirmation was signed 30th May, 1849, for Patterson. The United States appealed. The statute expired on the 17th June, 1849. Afterwards, in the Supreme Court here, a motion was submitted on behalf of Joseph Piernas' heirs, praying leave to intervene in the Supreme Court to sustain their alleged rights to the land. It was refused, for that an *intervention* could not be entertained here or below after the bar of the statute. But the court added: "In looking through the record, we find no fact to authorize the belief that the heirs of Piernas have any title," &c.

The court also found that Patterson had not made out his title under the heirs of William Barr; but, as the original grant was deemed proper for confirmation, the decree was affirmed, with the direction "that the confirmation shall be for the use of the legal representatives of William Barr, deceased." This was in December term, 1853, more than four years after the expiration of the act of 1844.—(U. S. vs. Patterson, 15 Howard, 10.)

This case differs from Patterson; for, 1st. In looking through this record, the court will find ample facts to authorize the belief that the heir of Simpson and the heirs of Dr. John Watkins have a good title to all of this grant. 2d. The amendment here does not present a third party, claiming against both the original parties; but the amendment is by the original petitioner, and makes no new issue or parties. 3d. In Patterson's case, an *intervention* was filed, by parties hostile to

him and the United States; and an intervention is a new suit. (2 Hennen's La. Digest, 1178 No. 7.) In this case, the heir of Simpson and the heirs of Watkins did not intervene, and were not made parties. It is a case of amendment, not of intervention. It is not a new suit, but a continuance of the old. 4th. In Patterson's case, when the Supreme Court rendered judgment, there was no law in existence under which the intervenors could sue. In this case the reviving act of 10th June, 1872, is now in force, and will not expire till the 10th of June, 1875.

If there be any analogy between Patterson's case and this, it leads to the conclusion that this court, instead of reviving the decree of confirmation, will rather, as in Patterson's case, affirm the decree with the direction "that the confirmation shall be for the use of legal representatives of" Don Carlos Ramos; for "equity prevents multiplicity of suits," (Francis' Max. 9, 2 chancery, Reports, 37, 42,) and "will not decree a suit where it may decree a remedy."—(Branch's Principia, p. 46.) The law will not let a man do indirectly what cannot be done directly; but it will let him do directly what can be done indirectly. As this court might now, on the authority of Patterson's case, *indirectly* decree this grant to the heir of Simpson and the heirs of Watkins, under the name of the legal representatives of Ramos, will the court condemn an amendment by the heirs of Innerarity which *directly* seeks the same honest end?

That a decree of confirmation in this court, however shaped, a decree even in favor of the heirs of Innerarity absolutely, would enure to the sole use of the heir of Simpson and the heirs of Watkins, in view of the undisputed facts of this record is clear not only from Patterson's case, and on principle, but also from Carpentier vs. Montgomery, 13 Wallace, 480; Jewell vs. Porche, 2 Louisiana Annual, 148; Riddle vs. Ratliff, 8 Louisiana Annual, 106; Sandoz vs. Ozenne, 13 Louisiana Annual, 616; and see 4 Louisiana Annual, 421; 7 Ib., 546; 11 Ib., 142, and 12 Ib., 5.

But it is respectfully submitted that here the bar of the statute never intervenes. Under the act of 22d June, 1860, revived, the filing of the petition clearly suspended the running of the statute, and nothing short of an intentional abandonment of the suit of the heirs of Innerarity could restore the running of the statute. "In Louisiana the commencement of a suit is a legal interruption of the prescription, the running of which is not restored except by a voluntary, intentional and actual abandonment of it.—(Gaines vs. Hennen, 24 H., 553; Gaines vs. New Orleans, 6 Wall., 642:" cited 2 Brightly's Federal Digest, 246, No. 30.) The civil code of Louisiana, in treating

of the legal interruption of prescription or interruption by suit, declares "If the plaintiff in this case, after having made his demand, abandons or discontinues it, the interruption shall be considered as having never happened."—(Art. 3485.) And the supreme court of the state, in applying this article, say: "A suit, though dismissed when called for trial because of plaintiff's absence, still interrupts prescription. The abandonment of 3485, C. C., is an active one, and not such as may be implied from a litigant's absence or default at the trial. Art. 2247, C. N., does not present an analogous case.—(7 A. 523; 8 A. 469; 10 A. 327, [overruling 8 Annual, 453;] 12 A. 672; 14 A. 692;" 2 Hennen La. Digest, 1224, 4, No. 7.) Here the heirs of Innerarity, so far from abandoning the suit by their amendment, expressly "continued" the suit.—(Record 6.)

Third. Do the petitioners state a proper case for relief under the act?

This question arises upon the demurrer to the petition, and upon the demurrer to the petition and amendment, (Record 4, 7,) but as the Attorney General assigns but one error, the allowance of the amendment, and as that point has been discussed above, the third, fourth and fifth questions of this brief will not be argued here at length.

Under the third question there can be no reasonable doubt that the allegations of the petition are sufficient. Their sufficiency will be shown under the next question:

Fourth. Do petitioners prove such a grant as the act contemplates and also their title under the grant, and the other essential allegations of their petition?

This question arises upon the answer of the United States.—(Record 8.)

The petition states and describes such a *de facto* Spanish grant as the acts contemplate, alleges the origin and derivation of title, and by the diagram at the end of the record, of 28th February, 1870, shows the supposed location of the grant. The proof under the petition and amendment shows a clear title in the heir of Simpson and the heirs of Watkins, an accurate severance, and a strict compliance with all the requirements of the acts. The answer denies that the diagram of 28th of February, 1870, sufficiently describes the Spanish and American surveys involved. The act of 22d June, 1860, sec. 1, requires no specific description in the petition: "a sworn statement by the claimant of the lands *supposed* to be covered by his claim, according to the legal divisions and subdivisions," suffices.

The answer avers that the petition is defective in not stating the part of the grant remaining to be patented to petitioners in case of the recognition of the grant, and the part of the grant

disposed of to third persons by the United States and for which, therefore, in such event, indemnity locations would be allowed to petitioners.

The acts require no such special allegations. Such particulars pertain rather to the proof. With respect to them the evidence is ample and minute.—(Record 28, doc. G; 29, doc. H; diagram marked "Copy A," at end of Record.) This evidence shows that the United States have disposed of the whole grant to strangers, excepting 26.72 acres. The acts require no more. They intend that, in cases of confirmation, the confirmees shall receive the entire area of the grant, contemplating that patents shall issue to them for so much of the grant as remains undisposed of by the government, and that indemnity locations elsewhere shall be allowed them for the rest of the grant, so that the area of the patents and the area of such locations shall together equal the area of the grant as confirmed.—(Act 22d June, 1860, sec. 11.) As the surveyor general certifies, ("Copy A,") that the claim of Don Carlos Ramos "cannot be surveyed and located because of some prior locations of confirmed claims by the United States," the petitioners, under section 6 of the act of 1860, might have claimed indemnity locations for their entire grant.

The answer avers that the grant reserves the prior rights of third persons, and that the adverse claims shown in "Copy A" are of foreign origin, and so excepted from the grant. The grant is made "without prejudice to any third party who may have a *better* right."—(Record 22.) If any claim conflicting with the grant is within this exception, of course the area of the claim must be deducted from the 20,000 arpens now claimed under Ramos, for the grant to him is null *quoad* the conflict. But there is no such conflicting claim. The only claim in the neighborhood, of foreign origin, is that of Henry Collins, for 425 arpens. (Am. State Papers, Pub. Lands, vol. 3, p. 49, Claim 153 of Register B,) being section 42 of township 5, south, of range 2, east.—(Record 28, 30, and "Copy, A.") The grant and surveys in favor of Ramos do not conflict with this claim, but exclude it, and contain 20,000 arpens independently of it.—(See Pintado's plat 1702, end of record.) This is plain from "Copy A," on which the red exterior lines of the Ramos grant run around the claim of Collins, and not over it.

The other claims shown in "Copy A," conflict now with the grant to Ramos, but they were unknown to Spain, had no existence at the date of the grant, and are mere settlement donations, under the act of 3d March, 1819, sec. 3, (3 Stat., 528, chap. 100.) They therefore found a right in the owners of the grant to corresponding indemnity-locations, if the decree below be affirmed.

Fifth. Were the office copies of the Spanish grant and plats admissible, without first accounting for the originals?

The records from which these copies are made were written by a sworn clerk, capable of translating the French and Spanish languages.—(Act 25, April, 1812, sec. 1, 2 Stat., 713, chap. 67.) The recording of the grant and plats was compulsory, (Ib., sec. 4,) and was done under the supervision of a sworn commissioner, (Ib., sec. 1,) who had power to administer oaths and to compel the attendance of, and examine, witnesses, and had all other powers necessary to the investigation of the validity and genuineness of the instruments recorded.—(Ib., sec. 5.) The records were ultimately lodged with the register, and are to this day the basis of certificates of confirmation and patents for all valid claims as confirmed by acts of Congress.—(Act 3d March, 1819, sec. 12.) The copies offered are correctly certified by the successor of that register. The grant and plats were public writings, and so are the records whence the register certifies the copies.—(Record 17.) These records are so reliable that Congress acts on *abstracts* of them as sufficient evidence of the original grants, plats, &c., recorded in them.—(Am. State Papers, Pub. Lands, vol. 3, pp. 35 to 72; Act 3d March, 1819, §§ 1, 2, 3.)

Besides, the grant and plats presented to Commissioner Jas. O. Cosby, and recorded by him, were doubtless originals.—(See Innerarity's Notice of Claim, Record 11.) Three days after the date of the grant, Simpson and Watkins paid Ramos $20,000 in specie for it.—(Record 23.) This affords a powerful presumption of its genuineness. When the grants presented to Cosby were copies, or of doubtful authenticity, he always noted the fact.—(See Register C, Claim 24; Register D, Claims 17, 25, 51, 58, 59, 60, and 116; List of Anomalous Claims, Nos. 11 and 12: State Papers, 3, pp. 54 to 61.) Had the papers presented to Cosby by Innerarity been copies, or suspicious, he would have said so. He was hostile to grants by Morales, and would have questioned this grant, if the facts had warranted it. (Ib., p. 62.)

The inability of petitioners to offer the original papers is not suspicious. Those originals have probably been lost or destroyed by fire in the custody of the government. But, had they been restored to Innerarity by Cosby, what inducement was there for their preservation? The long hostility of the government to Morales' grants might well make their owners reckless of them. It is well known, that as early as 1820 such titles had ceased to be inventoried in successions as property, for why should poor despoiled men pay taxes on baubles—on titles utterly reprobated by the act of 26th March, 1804, sec. 14?

(2 Stat., 283, chap. 38.) Fire, death, time, accident, mutilation, and loss, concurring with the extinction and separation of families, and the chaos of war, are causes for which the petitioners surely will not be held responsible.

On principle the copies are admissible:—books of enrolment of deeds are provable by immediate copy, duly verified.—(1 Grenl. Evidence, § 484.) "And where the deed is found duly engrossed on the registry, a copy is good evidence."—(Booge vs. Parsons, 2 Vermont, 456.) It was doubtless in view of this principle, and of the hardships which would result to parties if required to produce original titles, and of the scrutiny which Cosby and the old land commissioners generally have excercised in admitting those originals to record, that Congress resolved to make the commissioners' records themselves evidence in cases like this. Therefore, the 7th section of the act of 22d June, 1860, as revived, declares that when any claim is presented for confirmation, "which has heretofore been presented before any board of commissioners under authority of Congress, the facts reported as proven by the former board shall be taken as true *prima facie;* and the evidence offered before such board, and remaining of record, shall be admitted on the examination of the claims made under the provisions of this act." The act neither says nor implies that the existence or loss of the original evidence shall be proved before admitting the records of the evidence. As the register could not legally allow the records, here, to be taken from his office, of course the copies offered, being duly certified by him, are as admissible as the records would be.

But, even if these copies were inadmissible as such, the facts in them reported as proven by Cosby, must, under the above provision of the statute, be taken as true *prima facie.* Now, Cosby, in this grant, reports, as proven, the date, area, grantor, grantee, place, survey, &c., of the grant.—(3 State Papers, 54, claim 15, Green's edition.) These are not questioned by the United States. Hence they must be taken as true, absolutely; and as they are the essence of the grant, they suffice to establish the grant without farther evidence. "If, on the whole record, the judgment of the inferior court is correct, it will not be reversed because improper evidence was admitted."—(Anonymous, Hempstead, 215, cited 1, Abbott Nat. Digest, 127, No. 358.) By the 11th sec. of the act 22d June, 1860, this case is tried here *de novo* according to "equity, and justice, and the principles" of that act; so that, if the amendment of the petitioners was too late below, which is denied, the objection is cured here by the reviving act of 10th June, 1872.—(17th Stats., 378, C. 421.)

Had not the severe statute of the 26th of March, 1804, section 14, prohibited the former owners of this grant under heavy penalties, from settling on their property, it would have been deemed

valuable, and would have been transmitted *nominatim* with the original titles, from man to man, by will or deed, and their successors of this generation would not now be at the mercy of the government, petitioning for scrip in lieu of lands taken from purchasers for value several generations ago.

We ask from the court a liberal construction of the liberal statute of 1860 as revived. For it is an act of indemnity. It seeks to repay claimants for lands appropriated by the government without the owner's default and without due process of law. It is an act of scanty indemnity. The government has appropriated the *unoffered* lands of these old grantees, and seeks to repay their descendants by *offered* minimum lands, the cheapest in the domain, (Act 22d June, 1860, sec. 6,) and bars them from locating their indemnity in their own States.—(Act 21st June, 1866, sec. 1, 14 Stats., 66, chap. 127.) It is an act of tardy indemnity. The old owners of this grant paid $20,000 in specie for it 70 years ago, and they and their patient successors have never been allowed to enter into possession of it.

Reason is the soul of law, as of man; and surely reason dictates, that as this suit is founded in substantial justice, and must come up here again under the new act of 10th of June, 1872, if dismissed now, such circuity and expense should be avoided by affirming the decree below. Why should this court beget another suit here, to be born in New Orleans?

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519 Seventh Street, N. W.,
Washington, D. C.,
27th of March, 1874.